

## **TABLE OF CONTENTS**

### **FOOD AND AGRICULTURAL CODE**

ARTICLE 1. GENERAL PROVISIONS .....	3
ARTICLE 2. DEFINITIONS .....	4
ARTICLE 3. FERTILIZER INSPECTION ADVISORY BOARD .....	9
ARTICLE 4. LICENSING.....	10
ARTICLE 5. REGISTRATION.....	11
ARTICLE 6. INSPECTION FEES .....	12
ARTICLE 7. TONNAGE REPORTS.....	13
ARTICLE 8. LABELS.....	14
ARTICLE 9. INSPECTION, SAMPLING AND ANALYSIS .....	14
ARTICLE 10. VIOLATIONS .....	15
ARTICLE 11. PROCEDURE FOR PROSECUTION.....	18
ARTICLE 12. MISBRANDING AND ADULTERATION.....	18

### **CALIFORNIA CODE OF REGULATIONS**

ARTICLE 1. STANDARDS AND LABELING .....	20
Fertilizing Materials - General Provisions .....	20
Definitions.....	22
Procedures for Claiming Protection of Trade Secrets.....	22
Conditions of Confidentiality .....	23
Use of Numerals to Describe the Guaranteed Analysis.....	24
Non-Nutritive Standards .....	24
Labeling Requirements .....	25
Biotics .....	28
Chelating Agents.....	29
Fish Emulsion .....	29
Hydroponics, Continuous Liquid Feed Products .....	29
Packaged Soil Amendments .....	29
Phosphorus Materials.....	30
Seed and Plant Food Mixture.....	31
Slow Released Plant Nutrients.....	31

Gypsum Equivalent.....	32
ARTICLE 2. SAMPLES.....	32
Official Samples.....	32
Subsamples .....	32
Sampling Procedure .....	32
Identification of Official Sample .....	34
Description of Sample.....	34
ARTICLE 3. LICENSING.....	34
Licensing.....	34
Experimental Use of a Fertilizing Material .....	34
ARTICLE 4. REGISTRATION.....	35
Registration .....	35
ARTICLE 5. TONNAGE REPORTING .....	36
Tonnage Reporting.....	36
Civil Penalty Guidelines .....	36
Filing Deadlines and Procedures .....	45
Hearing Schedule and Notification .....	45
Hearing Procedures .....	46
On Site Inspection of Organic Input Material Manufacturers .....	46

**FOOD AND AGRICULTURAL CODE  
DIVISION 7, CHAPTER 5. FERTILIZING MATERIALS**

**ARTICLE 1. GENERAL PROVISIONS**

**14501.** The Legislature finds and declares that it is the intent of this chapter to do all of the following:

- (a) To promote the distribution of effective and safe fertilizing materials essential for the production of food and fiber.
- (b) To provide assurance to the consumer of commercial fertilizers, agricultural minerals, packaged soil amendments, and auxiliary soil and plant substances that the product purchased is properly identified, and to provide assurance of the validity of the quality and quantity represented by the manufacturer of these products.
- (c) To provide funds for the administration and enforcement of this chapter.

**14502.** The secretary shall enforce this chapter and adopt and enforce such regulations relating to the manufacture, guaranteeing, labeling, and distribution of, the manner of reporting tonnage for, and making inspection tonnage fee payments upon, fertilizing materials as the secretary determines necessary to carry out this chapter. A copy of those regulations shall be mailed promptly upon adoption to each person who is licensed pursuant to this chapter. The failure of any licensee to receive a copy of the regulations is not a defense to a violation of the regulations.

**14502.1.** The secretary shall notify every licensee that manufactures, distributes, or sells ammonium nitrate, as defined in Section 14512.5, of their duty to maintain records pursuant to Section 14612.5 and to notify the secretary as to where those records may be obtained by him or her.

**14503.** Any money which is received by the director pursuant to this chapter shall be paid into the State Treasury to the credit of the Department of Food and Agriculture Fund, to be expended solely for the administration and enforcement of this chapter.

**14504.** The secretary shall prepare an annual statement of the operating expenditures and revenue related to this chapter which shall be presented to the board for review as soon as possible following the termination of the fiscal year. A copy of this statement shall be made available to any interested person upon request.

**14505.** Agricultural products derived from municipal sewage sludge shall be regulated as a fertilizing material pursuant to this chapter, and when used in general commerce, these products are not subject to regulation as a hazardous substance pursuant to Section 108130 of the Health and Safety Code and are not subject to regulation as a waste under Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code.

## **ARTICLE 2. DEFINITIONS**

**14511.** "Agricultural liming materials" are agricultural minerals composed of calcium or magnesium compounds, or both, which are capable of neutralizing soil acidity and which are distributed in this state for that purpose.

**14512.** "Agricultural mineral" means any substance with nitrogen (N), available phosphoric acid ( $P_2O_5$ ), and soluble potash ( $K_2O$ ), singly or in combination, in amounts less than 5 percent which is distributed for farm use, or any substance only containing recognized essential secondary nutrients or micronutrients in amounts equal or greater than minimum amounts specified by the director, by regulation, and distributed in this state as a source of these nutrients for the purpose of promoting plant growth. It shall include gypsum, liming materials, manure, wood fly ash, sewage sludge not qualifying as commercial fertilizer, and captured dilute solutions.

**14512.5.** "Ammonium nitrate" means solid ammonium nitrate that is chiefly the ammonium salt of nitric acid, contains not less than 33 percent of nitrogen, one-half of which is in the ammonium form and one-half of which is in the nitrate form, and is produced, imported, stored, offered for sale, sold, offered for distribution, received, or intended for use as a plant nutrient.

**14513.** "Auxiliary soil and plant substance" means any chemical or biological substance or mixture of substances or device distributed in this state to be applied to soil, plants, or seeds for soil corrective purposes; or that is intended to improve germination, growth, yield, product quality, reproduction, flavor, or other desirable characteristics of plants; or that is intended to produce any chemical, biochemical, biological, or physical change in soil; but does not include commercial fertilizers, agricultural minerals, pesticides, soil amendments, or manures. It shall include the following:

- (a) Bacterial inoculants.
- (b) Biotics.
- (c) Lignin or humus preparations.
- (d) Microbial products, including genetically engineered microorganisms.
- (e) Soil binding agents.
- (f) Synthetic polyelectrolytes.
- (g) Wetting agents to promote water penetration.
- (h) Any similar product intended to be used for influencing soils, plant growth, or crop or plant quality.

**14514.** "Biotics" means all materials for which claims are made relating to organisms, enzymes, or organism by-products.

**14515.** "Board" means the Fertilizer Inspection Advisory Board.

**14516.** "Brand" means any term, design, or trademark used in connection with a fertilizing material product.

**14517.** "Bulk material" means fertilizing materials distributed in nonpackaged form or in a container containing more than 50 kilograms or 110 pounds.

**14518.** "Business location" means any place where fertilizing materials are sold or stored for later sale, except storage of package materials on premises operated exclusively as a public warehouse.

**14519.** "Captured dilute solutions" means solutions that contain low levels of plant nutrients as a result of equipment rinsing and runoff.

**14520.** "Chelates" means compounds, usually organic, which can combine with a metal ion and form a ring structure between a portion of the chelating agent molecule and the metal.

**14521.** "Chelated plant nutrients" means compounds of metallic secondary nutrients and micronutrients with organic chelating agents which have the property of being available under pH conditions in which the nutrients normally form insoluble compounds.

**14522.** "Commercial fertilizer" means any substance which contains 5 percent or more of nitrogen (N), available phosphoric acid ( $P_2O_5$ ), or soluble potash ( $K_2O$ ), singly or collectively, which is distributed in this state for promoting or stimulating plant growth. "Commercial fertilizer" includes both agricultural and specialty fertilizers. "Specialty fertilizers" may contain less than 5 percent nitrogen (N), available phosphoric acid ( $P_2O_5$ ), or soluble potash ( $K_2O$ ), singly or collectively.

**14523.** "Common carrier" means a company licensed with the Public Utilities Commission that hauls for hire.

**14524.** "Complex" means bonding which includes both of the following:

(a) "Natural organic complexes" means organic by-products of the wood pulp and other industries, such as the lignin sulfonates and polyflavinoids, that form complexes with metallic secondary nutrients and micronutrients. "Natural organic complexes" do not include synthetic chelates in that natural organic complex, generally known as the natural organic chelates which are polymers, for which the nature of the metallic bonding is not known.

(b) "Inorganic complexes" include inorganic cations which form coordinate chemical bonds with other inorganic cations, anions, or neutral molecules, such as where metal-ammonia complexes of zinc or ammonia are coordinately bonded to the metal cation, and which usually reacts differently than the metal alone in solutions, but dissociates in soil and reacts as the uncomplexed cation.

**14525.** "Compost" means a biologically stable material derived from the composting process.

**14526.** "Composting" means the biological decomposition of organic matter which inhibits pathogens, viable weed seeds, and odors. "Composting" may be accomplished by mixing and piling in a way as to promote aerobic or anaerobic decay, or both.

**14527.** "Derivation statement" means the sources of all guaranteed primary nutrients or secondary nutrients, or both, and micronutrients.

**14528.** "Discontinued manufacturing" means an auxiliary soil and plant substance, packaged agricultural mineral, packaged soil amendment, organic input material, and specialty fertilizer that is no longer manufactured, but is still offered for sale.

**14529.** "Distribute" means to sell, offer, expose for sale, exchange, barter, or otherwise supply products for use in, or shipment within or into, this state.

**14530.** "Distributor" means any person who imports or consigns a fertilizing material or who offers for sale, sells, barter, or otherwise supplies this product for use in, or shipment within or into, this state.

**14531.** "Experimental use" means any application of a fertilizing material which is not offered for sale, has no commercial value, and is for the sole purpose of obtaining scientific data.

**14532.** "Farm use" means that the fertilizing material is used primarily for application to crops produced for commercial value.

**14533.** "Fertilizing material" means any commercial fertilizer, agricultural mineral, auxiliary soil and plant substance, organic input material, or packaged soil amendment.

**14534.** "Fish emulsion" means fertilizing material from which the guaranteed nutrients are derived primarily from fish, which contains a minimum of 40 percent total solids from fish, and which may contain additional sources of nitrogen, available phosphoric acid, and soluble potash for standardization purposes or stabilization purposes, or for both purposes, that shall be included in the required guaranteed analysis and derivation statement.

**14535.** "Grade" means the percentage of total nitrogen, available phosphoric acid, and soluble potash stated in the same terms, order, and percentage as the guaranteed analysis.

**14536.** "Guaranteed analysis" means the minimum percentage of primary or secondary plant nutrients or micronutrients, or both, claimed.

**14537.** (a) "Gypsum" means calcium sulfate dihydrate, a mineral used in the fertilizer industry as a source of calcium and sulfur which is also known as landplaster.

(b) "Phosphatic sulfate gypsum" means a by-product of calcium dihydrate from the manufacture of phosphoric acid, also known as phosphogypsum.

**14538.** "Hydroponics" means a system in which water soluble primary or secondary plant nutrients or micronutrients, or combination thereof, are placed in intimate contact with the plant's root system, being grown in a water or an inert supportive medium which supplies physical support for the roots but which does not add or subtract primary or secondary plant nutrients or micronutrients, or both.

**14539.** "Investigational allowance" means an allowance for variation inherent in the taking, preparation, and analysis of an official sample of fertilizing materials.

**14540.** "Label" means the display of all written, printed, or graphic matter on the immediate container of, or a statement, including the guaranteed analysis, accompanying fertilizing material.

**14541.** "Label guarantor" means the manufacturer's or person's name appearing on the label of a fertilizing material.

**14542.** "Labeling" means all written, printed, or graphic matter on, accompanying, or used in promoting the sale of any fertilizing material, including advertisements, brochures, posters, and television and radio announcements.

**14543.** "Licensee" means a person who has obtained a license pursuant to this chapter.

**14544.** "Manufacturer" means a person who produces, sells, or distributes a fertilizing material in this state that bears their company name on the label and is the guarantor.

**14545.** "Manure" means any substances composed primarily of animal excrement, plant remains, or mixtures of those substances.

**14546.** "Micronutrients" means boron, chlorine, cobalt, copper, iron, manganese, molybdenum, sodium, or zinc, alone or in any combination.

**14547.** "Mixed fertilizer" is a commercial fertilizer containing any combination or mixture of fertilizing materials.

**14548.** "Natural organic fertilizer" means materials derived from either plant or animal products containing one or more nutrients other than carbon, hydrogen, and oxygen, which are essential for plant growth, which may be subjected to biological degradation processes under normal conditions of aging, rainfall, sun-curing, air drying, composting, rotting, enzymatic, or anaerobic/aerobic bacterial action, or any combination of these, which shall not be mixed with synthetic materials or changed in any physical or chemical manner from their initial state except by physical manipulations such as drying, cooking, chopping, grinding, shredding, or pelleting.

**14549.** "Noncommercial use" means materials used primarily for application to lawns, shrubbery, flowers, trees, or where there is no crop for commercial value or economic purpose, excluding golf courses, cemeteries, and nurseries.

**14550.** "Official sample" means any sample of fertilizing material taken by an agent of the department and designated as "official" by the department.

**14550.5.** “Organic input material” means any bulk or packaged commercial fertilizer, agricultural mineral, auxiliary soil and plant substance, specialty fertilizer, or soil amendment, excluding pesticides, that is to be used in organic crop and food production and that complies with the requirements of the National Organic Program standards, as specified in Part 205 (commencing with Section 205.1) of Subchapter M of Chapter I of Subtitle B of Title 7 of the Code of Federal Regulations.

**14551.** "Packaged" means a fertilizing material distributed in packaged form or in a container containing equal to or less than 50 kilograms or 110 pounds.

**14552.** "Packaged soil amendment" means any substance distributed for the purpose of promoting plant growth or improving the quality of crops by conditioning soils solely through physical means. It includes all of the following:

- (a) Hay.
- (b) Straw.
- (c) Peat moss.
- (d) Leaf mold.
- (e) Sand.
- (f) Wood products.
- (g) Any product or mixture of products intended for use as a potting medium, planting mix, or soilless growing media.
- (h) Manures sold without guarantees for plant nutrients.
- (i) Any other substance or product which is intended for use solely because of its physical properties.

**14553.** "Percent or percentage" means percentage by weight.

**14554.** "Person" means individual, partnership, association, firm, limited liability company, or corporation who assumes responsibility for the product.

**14555.** "Plant" means any business location where fertilizing materials are manufactured, sold, or stored for later sale, except storage of packaged materials on premises operated exclusively as a public warehouse.

**14556.** "Primary plant nutrient" means nitrogen (N), available phosphoric acid (P<sub>2</sub>O<sub>5</sub>), or soluble potash (K<sub>2</sub>O).

**14557.** “Provisional registration” means that under certain circumstances, a label for renewal on an auxiliary soil and plant substance, packaged agricultural mineral, packaged soil amendment, organic input material, or specialty fertilizer, alone or in any combination, may be registered for a limited period of time while labels are being corrected and reprinted.

**14558.** “Registrant” means any person who has registered a packaged agricultural mineral, auxiliary soil and plant substance, packaged soil amendment, organic input material, or specialty fertilizer.



**14559.** "Secondary plant nutrient" means calcium, magnesium, or sulfur, alone or in any combination.

**14559.5.** "Secretary" means the Secretary of Food and Agriculture.

**14560.** "Sewage sludge" means the solid material resulting from the treatment of waste water of residential or municipal sewage systems.

**14561.** "Soil conditioners" means polyelectrolytes, such as complex vinyl and acrylic compounds and certain cellulose and lignin derivatives, which tend to agglomerate soil colloids and produce a crumb structure in the soil and increase the permeability of the soil to air and water and increase its resistance to crusting when it dries out.

**14562.** "Soilless growing medium" means a medium of an inorganic substance, such as sand or gravel, or in a soilless organic material such as sphagnum peat or pine bark, and periodically watered with a primary or secondary plant nutrient or micronutrient solution, or both.

**14563.** "Specialty fertilizer" means packaged commercial fertilizer labeled for home gardens, lawns, shrubbery, flowers, and other similar noncommercial uses. These products may contain less than 5 percent nitrogen (N), available phosphoric acid (P<sub>2</sub>O<sub>5</sub>), or soluble potash (K<sub>2</sub>O), singly or collectively, detectable by chemical methods.

**14564.** "Ton" means a net weight of 2,000 pounds avoirdupois.

### **ARTICLE 3. FERTILIZER INSPECTION ADVISORY BOARD**

**14581.** There is, in the department, a Fertilizer Inspection Advisory Board consisting of nine persons appointed by the secretary, eight of whom shall be licensed under this chapter and subject to the payment of the inspection fee in accordance with this chapter, and one of whom shall be a public member. The members of the board shall receive no compensation, but are entitled to payment of necessary traveling expenses in accordance with the rules of the Department of Personnel Administration. These expenses shall be paid out of appropriations made to the department pursuant to this chapter.

**14582.** The term of office of a member of the board is three years. The initial board shall consist of, three members appointed for a term of three years, three members appointed for a term of two years, and three members appointed for a term of one year. Thereafter, appointments shall be for full three-year terms. Vacancies shall be filled for the duration of an unexpired term.

**14583.** The board shall be advisory to the secretary and may make recommendations on all matters pertaining to this chapter, including, but not limited to, the inspection and enforcement program, research and education, the annual budget, necessary fees to provide adequate inspection services, and regulations required to accomplish the purposes of this chapter.

**14583.5.** (a) The secretary, by January 1, 2012, and in consultation with the board, shall review the definition of organic input materials in Section 14550.5 and identify oversight and implementation issues that may arise or have arisen on account of that definition. The review shall also include an examination of materials not currently regulated under this definition that may warrant oversight by the department so as to protect the state's agricultural industry, including the organic industry, and recommendations for any necessary statutory changes.

(b) The secretary shall post the review required pursuant to subdivision (a) in a report on the Internet Web site of the department.

**14584.** The board shall elect a chairperson and other officers as it deems advisable.

**14585.** The board shall meet at the call of the chairperson or the secretary, or at the request of any five members of the board. The board shall meet at least once a year.

**14586.** The secretary shall accept the recommendations of the advisory board pertaining to subdivision (b) of Section 14611 if he or she finds them to be practicable and in the interests of the fertilizer industry and the public. If the secretary does not accept the recommendations of the advisory board, or any part thereof, the secretary shall provide the board with a written statement within 15 working days of making his or her decision stating the reasons for not accepting the recommendations, or any part thereof.

#### **ARTICLE 4. LICENSING**

**14591.** (a) Every person who manufactures or distributes fertilizing materials shall, before he or she engages in the activity, obtain a license from the secretary for each plant and business location that he or she operates. Prior to issuing a license, the secretary shall require verification that the applicant is a manufacturer or distributor of fertilizing material compliant with this chapter. All licenses shall be renewed in January of each odd-numbered year, and shall be valid until December 31 of the following even-numbered year, if issued in January of that same year. However, a person who only distributes or who makes retail sales of packaged agricultural minerals, packaged commercial fertilizers, packaged soil amendments, organic input material, or packaged auxiliary soil and plant substances, alone or in any combination, which bear the registered label of another licensed person, is not required to obtain the license.

(b) Every person who manufactures or distributes, or intends to manufacture or distribute, ammonium nitrate as defined in Section 14512.5, in this state, shall inform the secretary of that activity or intent when applying for a license. The license obtained by that person shall identify him or her as a manufacturer or distributor of ammonium nitrate.

(c) The license fee shall not exceed three hundred dollars (\$300). The secretary may, based on the findings and recommendations of the board, reduce the license fee to a lower rate that provides sufficient revenue to carry out this chapter.

**14592.** A violation of this article is an infraction punishable by a fine of not more than five hundred dollars (\$500). A second or subsequent violation of this article is a misdemeanor punishable by a fine of not less than one hundred dollars (\$100) and not more than one thousand dollars (\$1,000).

**14593.** The license shall expire on December 31, of an even-numbered year. Each application for renewal shall be accompanied by a fee not to exceed two hundred dollars (\$200) for each plant or business location which a person operates. If a license is not renewed within one calendar month following expiration, a penalty of fifty dollars (\$50) shall be added to the fee and an additional penalty of fifty dollars (\$50) shall be added for each succeeding calendar month the business location remains unlicensed. The total penalty, however, shall not exceed 100 percent of the original amount due.

## **ARTICLE 5. REGISTRATION**

**14601.** (a) Each differing label, other than weight or package size, such as changes in the guaranteed analysis, derivation statement, or anything that implies a different product, for specialty fertilizer, packaged agricultural mineral, auxiliary soil and plant substance, organic input material, and packaged soil amendment shall be registered. All registrations shall be renewed in January of an even-numbered year, and shall be valid until December 31 of the following odd-numbered year, if issued in January of that same year. The registration fee shall not exceed two hundred dollars (\$200) per product, except for organic input material.

(b) Notwithstanding subdivision (a), the registration fee for organic input material shall not exceed five hundred dollars (\$500) per product, as the registration of organic input material labels require additional departmental resources and review time to ensure that nutrient guarantees and claims are scientifically feasible and meet National Organic Program standards. Funds generated from the registration of organic input material shall be deposited into the Organic Input Materials Account in the Department of Food and Agriculture Fund and, notwithstanding Section 221, shall be available upon appropriation by the Legislature.

(c) The secretary may, based on the findings and recommendations of the board, reduce the registration fees to a lower rate that provides sufficient revenue to carry out this chapter.

(d) Registrations may not be issued without a current license.

(e) The secretary may require proof of labeling statements and other claims made for any specialty fertilizer, agricultural mineral, packaged soil amendment, organic input material, or auxiliary soil and plant substance, before the secretary registers any such product. As evidence of proof, the secretary may rely on experimental data, evaluations, or advice furnished by scientists, including scientists affiliated with the University of California, and may accept or reject additional sources of proof in the evaluation of any fertilizing material. In all cases, experimental proof shall relate to conditions in California under which the product is intended for use.

(f) Organic input material manufacturers shall be inspected at least once per year. The secretary may perform site inspections of organic input material manufacturing processes used to validate label nutrient guarantees, claims, and compliance with National Organic Program standards during the registration process. The secretary may accept inspections performed by a third-party organization recognized by the National Organic Program for out-of-state organic input material manufacturers. All inspection records obtained by the third-party organization shall be made available to the secretary upon request. When a third-party organization is conducting a site inspection, the organization shall notify the department of when the inspection is going to take place no less than 72 hours in advance of the inspection. Department representatives may be present at the inspection.

(g) (1) The secretary, after hearing, may cancel the registration of, or refuse to register, any specialty fertilizer, packaged agricultural mineral, packaged soil amendment, organic input

material, or auxiliary soil and plant substance, which the secretary determines is detrimental or injurious to plants, animals, public safety, or the environment when it is applied as directed, which is known to be of little or no value for the purpose for which it is intended, or for which any false or misleading claim is made or implied. The secretary may cancel the registration of any product of any person who violates this chapter.

(2) The proceedings to determine whether to cancel or refuse registration of any of those products shall be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. The secretary shall have all the powers that are granted pursuant to Chapter 5.

**14602.** A violation of this article is an infraction punishable by a fine of not more than five hundred dollars (\$500). A second or subsequent violation of this article is a misdemeanor punishable by a fine of not less than one hundred dollars (\$100) and not more than one thousand dollars (\$1,000).

**14603.** The registration shall expire on December 31, of an odd-numbered year. Each application for renewal shall be accompanied by a fee not to exceed two hundred dollars (\$200) for each product label. If a registration is not renewed within one calendar month following expiration, a penalty of fifty dollars (\$50) per product label shall be added to the fee.

#### **ARTICLE 6. INSPECTION FEES**

**14611.** (a) A licensee whose name appears on the label who sells or distributes bulk fertilizing materials, as defined in Sections 14517 and 14533, to unlicensed purchasers, shall pay to the secretary an assessment not to exceed two mills (\$0.002) per dollar of sales for all fertilizing materials. A licensee whose name appears on the label of packaged fertilizing materials, as defined in Sections 14533 and 14551, shall pay to the secretary an assessment not to exceed two mills (\$0.002) per dollar of sales. The secretary may, based on the findings and recommendations of the board, reduce the assessment rate to a lower rate that provides sufficient revenue to carry out this chapter.

(b) In addition to the assessment provided in subdivision (a), the secretary may impose an assessment in an amount not to exceed one mill (\$0.001) per dollar of sales for all sales of fertilizing materials, to provide funding for research and education regarding the use and handling of fertilizing material, including, but not limited to, support for University of California Cooperative Extension, the California resource conservation districts, other California institutions of postsecondary education, or other qualified entities to develop programs in the following areas:

(1) Technical education for users of fertilizer materials in the development and implementation of nutrient management projects that result in more agronomically sound uses of fertilizer materials and minimize the environmental impacts of fertilizer use, including, but not limited to, nitrates in groundwater and emissions of greenhouse gases resulting from fertilizer use.

(2) Research to improve nutrient management practices resulting in more agronomically sound uses of fertilizer materials and to minimize the environmental impacts of fertilizer use, including, but not limited to, nitrates in groundwater and emissions of greenhouse gases resulting from fertilizer use.

(3) Education to increase awareness of more agronomically sound use of fertilizer products to reduce the environmental impacts resulting from the overuse or inefficient use of fertilizing materials.

**14612.** Each licensee shall maintain in this state, or with the secretary's permission, at another location, an accurate record of all transactions subject to assessment. These records shall be maintained for a period of not less than three years following the transaction and are subject to audit by the secretary.

**14612.5.** (a) Every licensee that manufactures, distributes, or sells ammonium nitrate, as defined in Section 14512.5, shall maintain in this state, or with the secretary's permission, at another location, all of the following information with respect to sales of ammonium nitrate:

(1) The names, addresses, and driver's license and telephone numbers of purchasers. The name and address of each purchaser shall be verified against a valid California driver's license, unless the fertilizer is shipped to a wholesale purchaser outside of the state.

(2) The date of each sale.

(3) The total amount of material sold.

(b) The information collected by licensees pursuant to subdivision (a) shall be kept for a period of at least three years and shall be made available only to the secretary or law enforcement officials upon request.

**14613.** The payment required by Section 14611, together with a form containing information prescribed by the secretary, shall be made quarterly within one calendar month after March 31, June 30, September 30, and December 31 of each year, and that form shall be submitted on or before those dates even if no fertilizer materials are sold. For any delinquency in making the payment, or any deficiency in payment, the director shall add a penalty of 15 percent to the delinquent payment. Any delinquency which is more than 90 days past due is a cause for cancellation of the license.

## **ARTICLE 7. TONNAGE REPORTS**

**14621.** The last licensee selling or distributing fertilizing material shall submit a tonnage report, on a form or a computer printout format approved by the secretary, containing information on shipments received or deliveries made during specified periods designated by the secretary.

**14622.** (a) The secretary shall publish, at least annually, a tonnage report. The secretary shall distribute the report and may charge a fee to cover the actual cost of publishing and distributing the report.

(b) Any information furnished to the secretary under this chapter shall not be disclosed in such a way as to divulge the business practices of any licensee.

**14623.** The tonnage report shall be submitted to the secretary semiannually not later than January 31 and July 31 of each year. The secretary shall impose a penalty in the amount of two hundred dollars (\$200) on any person who does not submit the report on or before those dates. Any tonnage report that is more than 90 days past due is a cause for revocation of the license.

## **ARTICLE 8. LABELS**

**14631.** Every lot, parcel, or package of fertilizing material distributed into or within this state shall have attached to it, or the shipment shall be physically accompanied by, a label as required by the secretary, by regulation. The secretary may require proof of labeling statements and claims made for any fertilizing material. As evidence of proof, the secretary may rely on experimental data, evaluations, or advice furnished by scientists, including scientists affiliated with the University of California, and may accept or reject additional sources of proof. The secretary shall cancel the approval of, or refuse to approve, a fertilizing material label if the secretary determines that adequate proof of label claims does not exist. The secretary, after hearing, may cancel the license of any person who distributes a fertilizing material with a label for which approval has been canceled or a label that has not been approved by the secretary.

## **ARTICLE 9. INSPECTION, SAMPLING AND ANALYSIS**

**14641.** The secretary shall have free access at reasonable times to all records, premises, production processes, or conveyances that are used in the manufacture, transportation, importation, distribution, storage, or application of any fertilizing material.

**14642.** The secretary shall, at the times and to the extent necessary for the enforcement of this chapter, do all of the following:

- (a) Take samples of any substance.
- (b) Make analyses or examinations of any substance.
- (c) Conduct investigations concerning the use, sale, adulteration, or misbranding of any substance.
- (d) Inspect the fertilizing material manufacturing facilities and take samples at various stages of production to verify label and labeling claims and production processes.

**14643.** In determining the percentage of component parts of any substance for the purpose of proper labeling, registration, or determining compliance with representations, all analyses shall be made according to a method determined by the secretary.

**14644.** The secretary shall publish, at least annually, the results of examinations or chemical analyses of official samples of commercial fertilizer and agricultural minerals, and any additional information the secretary deems necessary.

**14645.** The secretary may take a sample for analysis from any lot of fertilizing material which is in the possession of any producer, manufacturer, importer, agent, dealer, or user. The sample shall be taken pursuant to regulations adopted by the secretary.

**14646.** The secretary shall establish sampling procedures by regulation.

**14647.** Upon the analysis of a sample of fertilizing material, the secretary shall issue a report showing the findings and indicating that the product has met the guarantee or was found to be deficient. However, the secretary, in determining whether any product is deficient in guarantee

or misrepresented, may establish, by regulation, tolerances that provide allowances for variations that occur in the taking, preparation, and analysis of an official sample.

**14648.** In any action, civil or criminal, in any court in this state, a laboratory report from the secretary which states the results of any analysis, reported to be made pursuant to this chapter, shall be prima facie evidence of all of the following:

- (a) That the sample which is described in the laboratory report was properly analyzed.
- (b) That the sample was taken pursuant to this chapter.
- (c) That the substances analyzed contained the component parts which are stated in the laboratory report.
- (d) That the sample was taken from the lots, parcels, or packages which are described in the laboratory report.

**14649.** (a) It is unlawful for the owner of a plant, crop, or commodity to knowingly treat or apply to that plant, crop, or commodity, or cause that plant, crop, or commodity to be treated or applied, with a fertilizer that was stolen or otherwise acquired by illegal means.

(b) The owner of a crop, who is found by a court to have violated this section, in addition to any other penalties imposed by a court, shall be subject to a fine of ten thousand dollars (\$10,000) plus an amount equal to one-half the value of the crop on which the illegally obtained fertilizer was applied.

(c) For purposes of this section, "one-half the value of the crop" means one-half the market value of the crop that was actually treated with the illegally obtained fertilizer as determined by the actual sale of the crop or, if the crop is not actually sold, as determined by the director based on an average of the typical market value for such a crop sold in the normal channels of trade in the year in which the crop was produced and in the preceding two years.

(d) Moneys received as a result of fines and penalties imposed pursuant to this section shall be divided and distributed as follows:

- (1) Fifty percent to the county in which the case was brought to court or in which a court approved settlement of the matter was negotiated.
- (2) Twenty-five percent to the office of the county agricultural commissioner.
- (3) Twenty-five percent to the department.

**14650.** (a) Any person who is licensed pursuant to this code and who is found by a court to have knowingly sold, applied, or provided fertilizers that were stolen or otherwise obtained illegally, in addition to any other penalty that may be imposed, shall have his or her license or licenses suspended for a minimum of 18 months.

(b) This section does not apply to a licensee whose employee or agent is found by a court to have knowingly sold, applied, or provided fertilizers that were stolen or otherwise obtained illegally, unless the licensee had actual knowledge of that conduct.

## **ARTICLE 10. VIOLATIONS**

**14651.** (a) Unless otherwise specified in this chapter, any violation of this chapter, or the regulations adopted pursuant to this chapter, is a misdemeanor, punishable by a fine of not more than one thousand dollars (\$1,000) for the first violation and not less than one thousand dollars (\$1,000) for each subsequent violation.

(b) The secretary may, after hearing, refuse to issue or renew, or may suspend or revoke, a license or registration for any violation of this chapter or any regulation that is adopted pursuant to this chapter.

(c) Upon calling a hearing, the secretary shall hand deliver or mail a notice of the hearing to the licensee or registrant specifying the time and place of the hearing at least 10 days prior to the hearing. The hearing officer may do any of the following:

(1) Administer oaths and take testimony.

(2) Issue subpoenas requiring the attendance of the licensee, registrant, or witnesses, together with books, records, memorandums, papers, and all other documents that may be pertinent to the case.

(3) Compel from the licensee or registrant and any witness the disclosure of all facts known to him or her regarding the case. In no instance shall any employee of Feed, Fertilizer, Livestock Drugs and Egg Regulatory Services serve as the hearing officer in any hearing conducted pursuant to this section.

(d) Any person who is denied a license, whose license is not renewed, or whose license is suspended or revoked pursuant to this section may appeal to the secretary.

**14651.5.** (a) The department shall levy a civil penalty against any person who violates this chapter in an amount of not more than five thousand dollars (\$5,000) for each violation. The amount of the penalty assessed for each violation shall be based upon the nature of the violation, the seriousness of the effect of the violation upon the effectuation of the purposes and provisions of this chapter, and the impact of the penalty on the violator, including the deterrent effect on future violations.

(b) Upon a finding that the violation is minor or unintentional, in lieu of a civil penalty, the secretary may issue a notice of warning.

(c) A person against whom a civil penalty is levied shall be afforded an opportunity for a hearing before the secretary, upon a request made within 30 days after the date of issuance of the notice of penalty. At the hearing, the person shall be given the right to present evidence on his or her own behalf. If no hearing is requested, the civil penalty shall constitute a final and nonreviewable order.

(d) If a hearing is held, review of the decision of the secretary may be sought by the person against whom the civil penalty is levied within 30 days of the date of the final order of the secretary pursuant to Section 1094.5 of the Code of Civil Procedure.

(e) A civil penalty levied by the department pursuant to this section may be recovered in a civil action brought in the name of the state.

**14652.** (a) It is unlawful for any person to manufacture or distribute in this state any fertilizing material without complying with this chapter or the regulations adopted pursuant to this chapter.

(b) It is unlawful for any person to adulterate, misbrand, or alter any fertilizing material with the result that the fertilizing material would be inconsistent with the label claims. Any violation of this subdivision is a misdemeanor punishable by a fine as follows:

(1) Not more than five thousand dollars (\$5,000) for the first violation that is not a knowing violation.

(2) Not more than fifteen thousand dollars (\$15,000) for each subsequent unknowing violation.

(3) Not less than fifteen thousand dollars (\$15,000) for each knowing violation.



(c) Any person found in violation of subdivision (b) of this section or subdivision (e) of Section 14682 may also be prohibited by the secretary from obtaining a license to sell organic input materials for three years.

**14653.** The secretary may seize and hold any lot of fertilizing material which he or she has reasonable cause to believe is in violation of this chapter or the regulations adopted pursuant to this chapter.

**14654.** If the secretary seizes any lot of fertilizing material, he or she shall immediately issue a hold order to the person that has control of that material. The secretary may affix to that lot or package of the material a warning tag which states that the lot is subject to a hold order.

**14655.** (a) Any lot of fertilizing material for which a hold order or notice is issued shall be held by the person having control of the material and shall not be distributed or moved except under the specific directions of the secretary, pending final disposition pursuant to this chapter. This does not prevent the person who has control of the material from inspecting any seized material or from taking a reasonable sample for evidence while in the presence of a person designated by the secretary.

(b) The movement, distribution, or sale of all or part of any product by the person having control of the material that has been quarantined by the secretary, unless the movement, distribution, or sale has the prior approval of the secretary, is a violation subject to a civil penalty as specified in Section 14651.5, or a misdemeanor punishable by a fine of not more than five thousand dollars (\$5,000). A second or subsequent violation of this subdivision is a misdemeanor punishable by a fine of not less than ten thousand dollars (\$10,000).

**14656.** Upon demand of the person who has control of the seized fertilizing material, and within 10 days of sampling by the secretary, a subsample shall be returned from the state laboratory to the person in control of the fertilizing material.

**14657.** If the seized and held lot, as determined by the secretary's analysis, is not in violation of this chapter, the secretary shall immediately release the seized and held lot and remove the hold order.

**14658.** If the seized and held lot is found to be in violation of this chapter, the secretary shall take either of the following actions:

(a) Continue to hold the lot until such time as the requirements of this chapter have been complied with, at which time the lot shall be released.

(b) Issue orders for the disposal of the lot in a manner specified by the secretary.

**14659.** The person who has control of a seized or held lot that is found to be in violation of this chapter may appeal the result of the analysis to the secretary, in writing, within 15 days of receiving the notice of violation. Upon receipt of that appeal, the secretary shall take a further sample of the lot in question for analysis. The cost of sampling and analysis shall be at the expense of the person who requests the further sample. The findings of the analysis on appeal shall be conclusive.

**14660.** The authority for the issuance of citations is limited to the violations of Sections 14591, 14601, 14631, 14651, and 14655. The secretary shall adopt procedures for the issuance of citations and penalties, upon the recommendation of the board. Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to the procedures adopted by the secretary pursuant to this section.

**14661.** (a) The department shall be entitled to receive reimbursement from any person who is found in violation of this chapter for any reasonable attorney's fees and other related costs, including, but not limited to, investigative costs, involved in enforcement of this chapter.

(b) The department shall use all funds received pursuant to this chapter for the purposes of this chapter.

### **ARTICLE 11. PROCEDURE FOR PROSECUTION**

**14671.** In addition to the remedies provided in this chapter, the department may bring an action in superior court and the court may grant a temporary or permanent injunction restraining any person from violating this chapter or the regulations adopted pursuant to this chapter. Any proceeding under this section shall conform to the requirements of Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure. The department shall not, however, be required to allege facts necessary to show or tending to show irreparable damage or loss. The court may require any acts or course of conduct necessary to effectuate the purposes of this chapter.

**14672.** Nothing in this chapter requires the secretary to report for prosecution or to institute injunctive proceedings for any minor violation of this chapter whenever the secretary believes that the public interest would be adequately served by a suitable written notice of warning and compliance with the notice.

### **ARTICLE 12. MISBRANDING AND ADULTERATION**

**14681.** No person shall distribute misbranded fertilizing materials. A fertilizing material shall be deemed to be misbranded under any of the following conditions:

(a) If its labeling is false or misleading in any particular way.

(b) If it is distributed under the name of another fertilizing material.

(c) If it is not labeled as required by regulations adopted pursuant to this chapter.

(d) If it purports to be, or is represented as, a fertilizing material, or is represented as containing a primary or secondary plant nutrient or micronutrients, or both, unless the plant nutrients conform to the definition of identity, if any, prescribed by regulation. In adopting these regulations, due regard shall be given to commonly accepted definitions and official fertilizer terms such as those prescribed by the Association of American Plant Food Control Officials.

**14682.** No person shall distribute an adulterated fertilizing material. A fertilizing material shall be deemed to be adulterated under any of the following conditions:

(a) If it contains any deleterious or harmful ingredient in sufficient amounts to render it injurious to beneficial plant life when applied in accordance with directions for use on the label,

or if adequate warning statements or directions for use that may be necessary to protect plant life are not indicated on the label.

(b) If its composition falls below or differs from that which it is purported to possess by its labeling.

(c) If it contains unwanted crop seed or weed seed.

(d) If it is a threat to public safety.

(e) If an organic input material contains ingredients that, in type or amount, do not comply with the requirements of the National Organic Program standards, as specified in Part 205 (commencing with Section 205.1) of Subchapter M of Chapter I of Subtitle B of Title 7 of the Code of Federal Regulations.

**TITLE 3. CALIFORNIA CODE OF REGULATIONS  
PLANT INDUSTRY  
SECTIONS 2300 THROUGH 2326**

**ARTICLE 1. STANDARDS AND LABELING**

**§ 2300. Fertilizing Materials - General Provisions.**

(a) Labels of fertilizing materials, shall comply with the requirements of this article.

(b) Efficacy data, which may be required as stated in Sections 14601 and 14631 of the Food and Agricultural Code, is data required to demonstrate the product's effectiveness when used as directed for all label claims. The data shall be obtained under California environmental use conditions or in areas that have essentially the same environmental use conditions.

(c) All guarantees shall be based on an Association of Official Analytical Chemists (AOAC) laboratory method or when no AOAC method is available, a method developed for specific analyses by the Department shall be used.

(d) The guaranteed analysis must be stated on an "as is" basis at time of sale or delivery to wholesale and retail customers.

(e) "Zero" guarantees shall not appear in the guaranteed analysis statement.

(f) Brand names, trademarks and tradenames are prohibited in the derivation statement or list of ingredients. They may appear as part of the product name in an area of the label separate from the list of ingredients or the derivation statement. However, trademarks and tradenames may not be similar to that of a recognized fertilizing material.

(g) The statement "State of California approved" or other indication of official approval is prohibited in labeling and advertising unless allowed for organic input material.

(1) Organic input material registered in accordance with Title 3, Section 2320.2 et seq. may reflect OR bear the following logos:



(2) The logo must replicate the form and design referenced in Section 2300(g)(1) and, if used, must be printed legibly and conspicuously.

(h) A warning or caution statement shall appear on the label of any commercial fertilizer product which contains 0.1 percent or more by weight of boron in water soluble form. This statement shall carry the word "WARNING" or "CAUTION" conspicuously displayed, shall state the crop(s) for which the fertilizing material is to be used or state that the use of the fertilizing material on any crops other than those recommended may result in serious injury to the crop(s).

(i) A warning or caution statement shall appear on the label of any commercial fertilizer product which contains 0.001 percent or more by weight of molybdenum (Mo). This statement

shall carry the word "WARNING" or "CAUTION" conspicuously displayed and the statement that the application of fertilizing materials containing molybdenum (Mo) may result in forage crops containing levels of molybdenum (Mo) which are toxic to ruminant animals.

(j) When the name of a fertilizing material appears on the label, outside of the guaranteed analysis statement, the percentage of that ingredient is required in the guaranteed analysis statement.

(k) The manufacturer of fertilizing materials shall provide information regarding a product's composition to the Secretary:

(1) For fertilizing materials requiring registration, information regarding the product's composition shall accompany the Fertilizing Material Registration Application.

(2) For registered fertilizing materials, the manufacturer shall notify the Secretary of any changes in the information on file regarding the product's composition within 30 days of the change.

(3) For fertilizing materials that do not require registration, the manufacturer shall provide information regarding the product's composition upon request by the Secretary.

(4) For all fertilizing materials, the manufacturer may reference previously submitted information in compliance with subsections (k)(1), (k)(2) and (k)(3) but only with permission from the manufacturer who submitted the original information.

(5) For all fertilizing materials whose production process allows for alternative inert ingredients, a list of alternative inert ingredients may be submitted when providing the Secretary information regarding composition as required by subsections (k)(1), (k)(2) and (k)(3).

(l) The manufacturer shall submit the following information on the composition of fertilizing materials:

(1) The name of each active and inactive ingredient and its concentration in percentage by weight. The ingredient shall be identified using its chemical or substance name according to the Chemical Abstract Society (CAS) nomenclature (including the CAS Registry Number) or its common, generally recognized name. For products whose net content is expressed by volume on its label, the ingredients' concentration information may be submitted based on volume as long as the approximate bulk density information is also included.

(2) When the information submitted in accordance to subsection (1)(1) is not sufficient to verify the safety or efficacy, the Secretary may require the manufacturer to provide additional ingredient information including but not limited to:

(a) The purpose of each ingredient, active or inactive.

(b) The source of each ingredient, including the manufacturer's and/or distributor's contact information and country of origin.

(c) The Material Safety Data Sheet (MSDS) if applicable, or any other technical information in support of safety.

(d) The physical or chemical characteristic of each ingredient.

(e) A description of the manufacturing process.

(f) The impurities associated with each ingredient. The term "impurity" means any substance in the fertilizing material other than an active ingredient or an inert ingredient, including but not limited to non-reactive ingredients, side-reaction products, contaminants, and degradation products.

(g) A valid analytical method for each ingredient where applicable.

Note: Authority cited: Sections 407, 14502 and 14631, Food and Agricultural Code.

Reference: Sections 14501(b), 14502, 14601, 14631, 14641, 14642 and 14643, Food and Agricultural Code.

### **§ 2300.1. Definitions.**

(a) The term "trade secret" means any data and/or information that discloses:

(1) The manufacturing or quality control processes, manufacturing facility or equipment.  
(2) The identity or percentage quantity of any deliberately added ingredients other than active ingredients.

(3) Any business practice that is otherwise considered as trade secrets under California Government Code Section 6254.7(d). All information concerning efficacy, including but not limited to the objectives, methodology, results, or significance of any test or experiment performed on or with a fertilizing material, and any information concerning the effects of such fertilizing material's action on the environment or human or animal health, shall not be considered "trade secrets."

(b) The term "active ingredient" means any agent responsible for the intended beneficial purpose, including but not limited to: provide primary plant nutrients, secondary nutrients or micronutrients; correct soil conditions through chemical and biological affects; enhance plant's growth, vigor, quality or size through chemical, biochemical, or biological change; or amends the soil through physical or chemical means.

(c) The term "inert ingredient" means a substance, other than an active ingredient, which is intentionally included in a fertilizing material product.

(d) The term "custom blend" means a fertilizing material blended according to specifications provided to a blender in a soil test nutrient recommendation or to meet the specific consumer (end user) request(s) prior to blending.

(e) The term "blender" means any person or system engaged in the business of blending fertilizing material.

Note: Authority cited: Sections 407 and 14502, Food and Agricultural Code.

Reference: Sections 14601 and 14631, Food and Agricultural Code; and Section 6254.7, Government Code.

### **§ 2300.2. Procedures for Claiming Protection of Trade Secrets.**

To assert a claim of confidentiality, a manufacturer must clearly identify any information which he claims is entitled to be considered as trade secrets.

(a) Any data and information claimed by the manufacturer to be trade secrets under Section 2300.1(a) of Title 3 of the California Code of Regulations shall be submitted in accordance to the following procedures:

(1) Any items of information which, in the manufacturer's opinion, should be considered as trade secrets as defined in Section 2300.1(a), shall be removed from the body of information and submitted in a separate, confidential attachment marked with "Trade Secrets" on its cover page. The manufacturer waives the claim for consideration as trade secret for any item that remains in the body of information.

(2) A reference number shall be assigned to each item that is to be considered as a trade secret in the confidential attachment; the corresponding reference number shall be placed in the body of the submitted information where the item was removed.

(3) The page number(s) and the number of the line from where the trade secret item was removed along with the applicability of the definition of a trade secret (Section 2300.1(a)) shall be included for each trade secret claim in the confidential appendix.

(b) Statements of confidentiality shall accompany all submissions of information. The statement shall be accompanied by the name, title, signature of the manufacturer or his properly designated agent, and the date of signature.

(1) If claiming confidentiality, the following statement of confidentiality shall be submitted: "Information claimed confidential on the basis of its falling within the scope of the trade secret definition in Section 2300.1(a), has been removed to a confidential appendix, and is cited by cross-reference number in the body of the submitted information."

(2) If no claim of confidentiality is being made for the information/data submitted, or if no such information is contained in the submitted information, the following statement of confidentiality shall be submitted: "No claim of confidentiality is made for any information contained in this study on the basis of its falling under the definition of trade secret in Section 2300.1(a)."

Note: Authority cited: Sections 407 and 14502, Food and Agricultural Code.

Reference: Sections 14601 and 14631, Food and Agricultural Code; and Section 6254.7, Government Code.

### **§ 2300.3. Conditions of Confidentiality.**

Information considered as trade secrets and therefore confidential will be withheld from public disclosure unless the Secretary has determined that disclosure is necessary to protect against an unreasonable risk of injury to health or the environment.

(a) Designating information as trade secrets by the manufacturer does not automatically qualify them as trade secrets and therefore subject to confidentiality. Upon receipt of a Public Records Act request the Secretary will determine the validity of trade secret claims. If the Secretary determines that the information designated as a trade secret is, in fact a trade secret, that information will be treated as such and will be held in confidence.

(b) If the Secretary determines that information designated by the manufacturer as trade secrets does not qualify as such and proposes to release it for inspection, the Secretary shall notify the manufacturer in writing, to the address provided by the manufacturer as stated on the license application. The Secretary shall not thereafter release for inspection any designated information until 10 days after mailing notice to the manufacturer. During this period, the manufacturer may institute an action in an appropriate venue for judgment as to whether such information is subject to protection.

Note: Authority cited: Sections 407 and 14502, Food and Agricultural Code.

Reference: Sections 14601 and 14631, Food and Agricultural Code; and Section 6254.7, Government Code.

### **§ 2301. Use of Numerals to Describe the Guaranteed Analysis.**

When any series of numerals are used in labeling of or in advertising to describe the formula or analysis, or in connection with the name, brand, or trademark, such numerals shall be arranged so that the first will be the guaranteed percentage of nitrogen; the second, the guaranteed percentage of available phosphoric acid; and the third, the guaranteed percentage of soluble potash. The guaranteed percentages shall be consistent with the guaranteed analysis.

Note: Authority cited: Sections 407, 14502 and 14631 of the Food and Agricultural Code.  
Reference: Section 14631 of the Food and Agricultural Code.

### **§ 2302. Non-Nutritive Standards.**

(a) Inorganic commercial fertilizer and agricultural mineral products shall not exceed the following standards for the non-nutrient metals arsenic, cadmium and lead:

(1) For each percent iron, manganese or zinc, the fertilizing material shall not exceed the following concentrations of non-nutrient metals: arsenic, 13 parts per million; cadmium, 12 parts per million; lead, 140 parts per million.

(2) For each percent available phosphate ( $P_2O_5$ ), the fertilizing material shall not exceed the following concentrations of non-nutrient metals: arsenic, 2 parts per million; cadmium, 4 parts per million; lead, 20 parts per million.

(3) The concentration limits are applied as follows:

(A) For micronutrient materials with guaranteed available iron, manganese or zinc, multiply the percentage of guaranteed micronutrient material (Minor Element) by the arsenic, cadmium and lead maximum concentrations as expressed in parts per million (ppm). Example: A 12% Iron product will have the following limits: arsenic, 156 parts per million (13 ppm X 12); cadmium, 144 parts per million (12 ppm X 12); and lead, 1,680 parts per million (140 ppm X 12).

(B) For phosphate ( $P_2O_5$ ) materials, multiply the guaranteed percentage of  $P_2O_5$  by the arsenic, cadmium and lead maximum concentrations as expressed in parts per million (ppm). Example: A guaranteed available 52% ( $P_2O_5$ ) phosphate product will have the following limits: arsenic, 104 parts per million (2 ppm X 52); cadmium, 208 parts per million (4 ppm X 52); and lead, 1,040 parts per million (20 ppm X 52).

(4) For specialty fertilizers that guarantee less than 6% available phosphate ( $P_2O_5$ ) but make no micronutrient claim, the maximum allowable concentrations of non-nutrient metals shall not exceed: arsenic, 10 parts per million; cadmium, 20 parts per million; and lead, 100 parts per million.

(5) For specialty fertilizers that guarantee less than 6% available phosphate ( $P_2O_5$ ) and make a micronutrient claim, multiply the guaranteed percentage of micronutrient by the arsenic, cadmium and lead maximum concentrations as expressed in parts per million (ppm) and add the following values to that total: arsenic, 10 parts per million; cadmium, 20 parts per million; and lead, 100 parts per million.

(6) The concentration limits are applied as follows:

(A) A guaranteed available 3% ( $P_2O_5$ ) phosphate product with 2% guaranteed zinc will have the following limits. Example: arsenic, 36 parts per million (13 ppm X 2 zinc = 26



ppm + 10 ppm); cadmium, 44 parts per million (12 ppm X 2 zinc = 24 ppm + 20 ppm); and lead, 380 parts per million (140 ppm X 2 zinc = 280 ppm + 100 ppm).

(b) Waste and hazardous waste shall be defined as specified in Title 22, CCR, Division 4.5, Chapter 11 - Identification and Listing of Hazardous Waste, commencing with Section 66261.1.

(c) Recyclable material used in fertilizing material manufacture shall meet all applicable requirements in the Code of Federal Regulations, Chapter 1, Title 40, Part 266, Subpart C - Recyclable Materials Used In a Manner Constituting Disposal, commencing with Section 266.20.

(d) Recyclable material used in fertilizing material manufacture shall be sampled and tested in accordance with procedures specified in Title 22, CCR, Division 4.5, Chapter 11 - Identification and Listing of Hazardous Waste, commencing with Section 66261.1.

(1) A copy of test results shall be submitted to the department for each source of recyclable material used in the manufacture of zinc, manganese or iron products utilized as a base fertilizing material ingredient. Additional test results shall not be required by the department unless the process or operation generating the recyclable material changes.

(e) No recyclable material may be used in fertilizing material manufacture if its use is denied pursuant to Title 22, CCR, Division 4.5, Chapter 16, Article 8.5 - Requirements for Management of Recyclable Materials Used in Agriculture, Section 66266.115.

(f) No recyclable hazardous waste may be used in fertilizing material manufacture unless the generator of such recyclable hazardous waste complies with Title 22, CCR, Division 4.5, Chapter 16, Article 8.5 - Requirements for Management of Recyclable Materials Used in Agriculture, commencing with Section 66266.115.

Note: Authority cited: Sections 407, 14502 and 14682 of the Food and Agricultural Code.  
Reference: Section 14682 of the Food and Agricultural Code.

### **§ 2303. Labeling Requirements.**

The label information for fertilizing materials required by Section 14631 of the Food and Agricultural Code, shall include the following:

(a) Product name.

(b) Measurement

(1) Net weight, of dry materials (for commercial fertilizer, agricultural mineral and auxiliary soil and plant substance labels).

(2) Volume (for packaged soil amendments and liquid specialty fertilizers).

(3) Density, (pounds per gallon at 68 degrees Fahrenheit), for bulk liquids only.

(c) Grade (for commercial fertilizer labels only).

(d) The licensee's name and address.

(e) Purpose of the product (for packaged soil amendments and specialty fertilizers only).

(f) Directions for use (for auxiliary soil and plant substances, packaged soil amendments and specialty fertilizers only).

(g) The statement "NONPLANT FOOD INGREDIENT" printed in capital letters (for auxiliary soil and plant substance products).

(h) A statement of composition showing the percent of each active ingredient, which is the agent in a product primarily responsible for the intended effects (for auxiliary soil and plant substances).

(i) A guaranteed analysis using the following format, terminology and order presented:

(1) Total Nitrogen (N)..... %  
    \_\_\_ % Ammoniacal Nitrogen  
    \_\_\_ % Nitrate Nitrogen  
    \_\_\_ % Water Soluble Organic Nitrogen or Other recognized and determinable  
        forms of nitrogen  
    \_\_\_ % Water Insoluble Organic Nitrogen or Water Insoluble Nitrogen  
Available Phosphoric Acid (P<sub>2</sub>O<sub>5</sub>) ..... %  
Soluble Potash (K<sub>2</sub>O) ..... %

(2) Secondary and micronutrient guarantee minimums. (if claimed)

Calcium (Ca).....	1.0000%
Magnesium (Mg).....	0.5000%
Sulfur (S).....	1.0000%
Boron (B).....	0.0200%
Chlorine (Cl).....	0.1000%
Cobalt (Co).....	0.0005%
Copper (Cu).....	0.0500%
___ % Chelated Copper	
Iron (Fe).....	0.1000%
___ % Chelated Iron	
Manganese (Mn).....	0.0500%
___ % Chelated Manganese	
Molybdenum (Mo).....	0.0005%
Sodium (Na).....	0.1000%
Zinc (Zn).....	0.0500%
___ % Chelated Zinc	

(3) Liming material guarantees: (if claimed)

Compound(s) composing material.....	%
(state specific compounds)	
Calcium carbonate equivalent.....	%
Sieve Analysis: 10 mesh.....	%
(BULK ONLY) 20 mesh.....	%
40 mesh.....	%
60 mesh.....	%
Moisture, maximum (BULK ONLY).....	%

(4) Other guarantees: (if claimed, and approved by the secretary)

(j) A derivation statement (for commercial fertilizers and agricultural mineral labels only).

(1) Abbreviations shall not appear in the derivation statement.

(k) A list of ingredients in decreasing amounts present. (For packaged soil amendments only).

(l) The following format and guarantees, as applicable for the following products or ingredients, shall appear following the derivation statement of agricultural mineral and commercial fertilizer labels:

"ALSO CONTAINS NONPLANT FOOD INGREDIENT(S):"

X% Humic Acids (Derived from ... state the source of the humic acids)

X% Polymers (state the name of the specific polymer. (For auxiliary soil and plant substances only).

Wetting Agents (state the name of the specific wetting agent on company letterhead and note if confidential - not required on the label)

(m) Additional information, other than secondary or micronutrient guarantees, shall not appear in the guaranteed analysis statement.

(n) The guarantees for the forms of nitrogen must add up to the total nitrogen guarantee claimed and are recommended in the order appearing in the format shown in section 2303(i)(1).

(o) Zeros are required before the decimal points when less than one percent.

(p) For packaged products, the information found in section 2303(a) through (o) shall either:

(1) Appear on the label, or

(2) Be printed on a tag and attached to the package. This information shall be in a conspicuous form.

(q) For bulk products, the information found in section 2303(a) through (o) shall be in written or printed form and shall accompany the delivery. This information shall be in a conspicuous form.

(r) The manufacturer of any base fertilizing material ingredient that claims iron, manganese, zinc or phosphates shall provide a guarantee statement that the product does not exceed standards established for arsenic, cadmium and lead.

(1) For purposes of the labeling guarantee, base fertilizing material ingredient shall be defined as phosphate, zinc, manganese, or iron products utilized singly or as material ingredient in blended or formulated fertilizing material products. Examples of such base fertilizing material ingredients include, but are not limited to, phosphoric acid, monoammonium phosphate, diammonium phosphate, zinc oxide, zinc sulfate, zinc from galvanizer skimmings, zinc from electric arc furnace dust, metallic zinc, refined zinc from the copper pickling process, zinc from circuit board recycling, iron II & III oxide, iron ore deposits, iron from recycling of bailing wire, rust or photographic operations, and manganese oxide.

(2) The guarantee statement shall report in parts per million the maximum total concentration of arsenic, cadmium and lead in the base fertilizing material ingredient.

(s) Packaged product labels for commercial fertilizer and agricultural mineral products, with the exception of gypsum, liming materials, manure, wood or coal fly ash, sewage sludge, composted products, potting soils, potting mix, blood meal, bone meal, feather meal, kelp meal or seaweed, cottonseed meal, fish meal, sphagnum moss and seed mix shall include either an informational statement of laboratory test results or provide an informational statement providing the maximum levels in parts per million of arsenic, cadmium, cobalt, copper, lead, mercury, molybdenum, nickel and selenium. In lieu of a statement on the label, the information may be provided by either of the following statements:

“Information regarding the contents and levels of metals in this product is available by calling 1-800-XXX-XXXX.”

OR

Information regarding the contents and levels of metals in this product is available on the Internet at <http://www.regulatory-info-xx.com>. Each registrant shall substitute a unique alphanumeric identifier for “xx”. This statement may be used only if the licensee establishes and maintains the Internet site; there is a clearly visible, direct hyperlink to a government web site; and, the Internet site contains no advertising or company-specific information. A government web site internet address on the label is an acceptable alternative to a web site established and maintained by the licensee.

(t) Testing methodology for the informational statement of laboratory test results shall conform to either sample preparation method 3050B or 3051 and conform to analysis methods as described in US EPA Publication SW-846 (Revision 3, December 1996), which is hereby incorporated by reference.

(u) Labeling provisions in Section 2303(r) shall be met no later than January 1, 2002. Labeling provisions in Section 2303 (s) shall be met no later than July 1, 2002, for all products entering into channels of trade.

(v) The publication of inaccurate information regarding the contents and levels of metals is a misbranding violation pursuant to Section 14681 of the Food and Agricultural Code.

(w) In adopting the labeling requirements, accepted definitions and official fertilizer terms listed in the 2010 American Association of Plant Food Control Officials Publication volume 63, may be considered.

Note: Authority cited: Sections 407, 14502 and 14631 of the Food and Agricultural Code  
Reference: Section 14631 of the Food and Agricultural Code.

#### **§ 2304. Biotics.**

All fertilizing materials for which claims are made relating to organisms, enzymes or organisms by products are auxiliary soil and plant substances and are subject to the registration requirement of Section 14601 of the Food and Agricultural Code. In addition to the information required by Section 14601 of the Food and Agricultural Code, the label of each product which contains organisms, enzymes and other biologically active by products of organisms for which claims are made shall state:

(a) Name of each species and strains as part of the statement of composition and name of each by product, if claimed.

(b) (1) The percentage or number of viable units of microorganisms per cubic centimeter or per gram for dry material. (2) The concentration in percentage of enzymes or other organism by products claimed.

(c) The expiration date for use.

(d) Storage conditions.

A generally accepted laboratory method for assaying the viable and attenuated units and the by-products claimed, and a copy of the analysis or alternate methods supporting proof of label claim, must be submitted with the registration application.

When used for the purpose intended, the product must not be pathogenic to plants or pathogenic to animals which may consume the treated plant. Biotic products such as *Rhizobium* spp., *Gigaspora* spp., *Glomus* spp. and *Pisolithus* spp., are acceptable for registration. Other biotic products are acceptable based on efficacy data.

Note: Authority cited: Sections 407, 14502, 14601 and 14631 of the Food and Agricultural Code.  
Reference: Sections 14601 and 14631

#### **§ 2305. Chelating Agents.**

The label of each product for which a chelation claim is made shall state:

- (a) The name of the chelating agent.
- (b) The percent of the guaranteed micronutrient content which is chelated, for example in the following format:

Zinc (Zn)..... %  
    \_\_\_ % Chelated Zinc

Authority: Sections 407, 14502 and 14631 of the Food and Agricultural Code.  
Reference: Section 14631 of the Food and Agricultural Code.

#### **§ 2306. Fish Emulsion.**

When a product is labeled as fish emulsion, it shall contain a minimum of 40 percent total solids.

Note: Authority cited: Sections 407, 14502 and 14631 of the Food and Agricultural Code.  
Reference: Section 14631 of the Food and Agricultural Code.

#### **§ 2307. Hydroponics, Continuous Liquid Feed Products and Ready-to-Use Foliar Products.**

The minimum percentages acceptable for micronutrients stated in Section 2303, do not apply to guarantees for those water soluble nutrients or micronutrients on products labeled only for hydroponic, continuous liquid feed programs or ready-to-use foliar products.

Note: Authority cited: Sections 407, 14502 and 14631 of the Food and Agricultural Code.  
Reference: Section 14631 of the Food and Agricultural Code.

#### **§ 2308. Packaged Soil Amendments.**

- (a) Packaged soil amendments shall be measured by volume (quarts/cubic feet). If other measurement information is shown, it shall be in parentheses following the volume statement, e.g. weight, cubic inches, fractions of cubic feet and metric conversions.

(b) No claim shall be made for chemical composition or nutritive constituents, except as provided in (d) and (f) of this section.

(c) When a packaged soil amendment is labeled as a specific material, such as peat moss or leaf mold, the product shall consist of not less than 95 percent of that material.

(d) Organic products such as bark, wood chips, wood sawdust and peat or peat moss claimed to be nitrogen fortified, nitrogen stabilized, or with other terms to inform that the product contains nitrogen added to compensate for nitrogen likely to be taken from soil due to the amendments decomposition therein, are soil amendments when such additional nitrogen is 0.5 percent or less. Any claim for such nitrogen stabilization or fortification or similar term made on the label of a packaged soil amendment shall be accompanied by a statement of the total percent of nitrogen contained therein.

(e) Packaged soil amendments may contain wetting agents.

(1) The claim "wetting agent added" can be made without guaranteeing the specific wetting agent or the percentage of such, but the chemical name of the wetting agent must be submitted at the time of registration along with the analytical method.

(f) Iron (Fe), may be guaranteed at less than 0.1 percent.

(g) If reference is made to the acidity or alkalinity of the product, or its influence on the soil, a range or specific pH must be guaranteed.

Note: Authority cited: Sections 407, 14502, 14601 and 14631 of the Food and Agricultural Code.  
Reference: Sections 14601 and 14631 of the Food and Agricultural Code.

### **§ 2309. Phosphorus Materials.**

(a) Products that contain phosphorous acid shall state on the label the percentage of "Total Phosphoric Acid", upon conversion of phosphorous acid.

Total Phosphoric Acid ( $P_2O_5$ ) .....

In addition the label shall state the following:

(1) Phosphorous acid products are for use as a supplemental fertilizer treatment.

(2) Upon foliar application, the phosphite ions are taken up directly by the plant foliage and may undergo a degree of conversion to phosphate ions, or will be used directly by plants, as phosphite ions.

(3) As a soil application to annual crops, a lesser response from the initial crop, with a corresponding superior response from succeeding crops, may be observed. In addition, placement close to seeds or root zones may be injurious to crops. The effect may be aggravated by a soil pH below 6.5.

(b) Products that contain phosphoric acid shall state on the label the percentage of "Available Phosphoric Acid". If, in addition, a percentage of "Total Phosphoric Acid" is stated, the percentage of "Insoluble Phosphoric Acid" (Citrate Insoluble Phosphorus) must be stated immediately below, for example:

Available Phosphoric Acid ( $P_2O_5$ ).....%

\_\_\_ % Total Phosphoric Acid ( $P_2O_5$ )

\_\_\_ % Insoluble Phosphoric Acid ( $P_2O_5$ )

Note: Authority cited: Sections 407, 14502 and 14631 of the Food and Agricultural Code.  
Reference: Section 14631 of the Food and Agricultural Code.

### **§ 2310. Seed and Plant Food Mixture.**

A packaged combination of viable seeds for planting intermixed with nitrogen, available phosphoric acid, or potash, added singly or in combination totaling one percent or less, solely to stimulate the sprouting seeds after planting is not classed as any form of fertilizing material as defined in Section 14533 of the Food and Agricultural Code.

Note: Authority cited: Sections 407 and 14502 of the Food and Agricultural Code.  
Reference: Section 14502 of the Food and Agricultural Code.

### **§ 2311. Slow Released Plant Nutrients.**

(a) The label shall not state or imply that a plant nutrient or micronutrient contained in a fertilizer is released slowly over a period of time, unless such nutrients or micronutrients are identified and guaranteed.

(b) The types of slow released products recognized are:

(1) Water insoluble (N products only), such as natural organics, urea formaldehyde, isobutylidene diurea and oxamide.

(2) Coated slow release such as sulfur coated urea and other encapsulated soluble fertilizers.

(3) Products containing water soluble nitrogen such as ureaform materials, urea formaldehyde products, methylenediurea (MDU), dimethylene triurea (DMTU), dicyanodiamide (DCD).

(4) Occluded slow release, where fertilizers or fertilizer materials are mixed with waxes, resins, or other inert materials and formed into particles.

The terms "water insoluble", "coated slow release", "slowly available water soluble" and "occluded slow release" are accepted as descriptive of these products provided the claim is substantiated by a research study as required by section 2300(b).

(5) Products containing phosphorous acid such as potassium phosphite and ammonium phosphite which undergo a degree of conversion in plants or soils to available phosphoric acid ( $P_2O_5$ ).

(c) When slowly released nutrients are less than 15 percent of each total of the guarantee for either total nitrogen (N), available phosphoric acid ( $P_2O_5$ ), or soluble potash ( $K_2O$ ), as appropriate, the label shall not refer to slow release of the materials.

(d) Association of Official Analytical Chemist's (AOAC) latest method shall be used to confirm the coated slow release and occluded slow release nutrients and others whose slow release characteristics depend on particle size and AOAC latest method shall be used to determine the water insoluble nitrogen of organic materials.

Note: Authority cited: Sections 407, 14502 and 14631 of the Food and Agricultural Code.  
Reference: Section 14631 of the Food and Agricultural Code.

### **§ 2312. Gypsum Equivalent.**

Any of the following four compounds, singly or in combination, shall be expressed as a percent gypsum equivalent on the label:

Hydrated Calcium Sulfate ( $\text{CaSO}_4 \cdot 2\text{H}_2\text{O}$ )  
Anhydride Calcium Sulfate ( $\text{CaSO}_4$ )  
Hydrated Calcium Sulfite  
Anhydride Calcium Sulfite

Note: Authority cited: Sections 407, 14502 and 14631 of the Food and Agricultural Code.  
Reference: Section 14631 of the Food and Agricultural Code.

## **ARTICLE 2. SAMPLES**

### **§ 2313. Official Samples.**

A sample of fertilizing materials drawn by the secretary for the purpose of analysis, in accordance with Sections 14641 and 14642 of the Food and Agricultural Code, shall be known as an "official sample" and shall be drawn in a manner prescribed by this article to represent the entire lot from which it is taken.

Note: Authority cited: Sections 407, 14502 and 14645 of the Food and Agricultural Code.  
Reference: Sections 14533 and 14645 of the Food and Agricultural Code.

### **§ 2314. Subsamples.**

Subsamples shall be provided to interested parties after laboratory analysis by the department, with the condition that the requesting party agree to provide analytical results of the subsample to the Department of Food and Agriculture, Feed, Fertilizer and Livestock Drug Branch within 21 days of receipt.

Note: Authority cited: Sections 407, 14502 and 14645 of the Food and Agricultural Code.  
Reference: Sections 14645 and 14646 of the Food and Agricultural Code.

### **§ 2315. Sampling Procedure.**

Each official sample shall consist of at least one pound of dry materials or one pint of liquid material taken in the following manner:

(a) **Packaged Dry Materials.**

- (1) Use a sampler that removes a core diagonally from end to end of the container.
- (2) The lot and the sample size will be established in the following manner:



Lot Size Containers	Sample Size Containers
Less than 5	All
6-15	5
16-30	6
31-60	7
61-100	8
101-200	9
201-300	10
301-500	11
501 or more	12

(3) Small packages of dry fertilizer material in packages of 80 pounds or less, when not practical to sample according to subsection (2) shall be represented by one unbroken package which will constitute the official sample.

(4) Place all cores into sample container and send to the laboratory.

(b) Sampling Dry Fertilizing Materials in Bulk Lots. Dry bulk material shall be sampled by one of the following methods:

(1) Use a bulk cup type sampler with an opening width at least three times the diameter of the largest particle being sampled and long enough to cut the complete stream. The delivery stream must be "cut" with the sampler at least ten times at equal intervals during the delivery.

The registrant mixing the material must supply a safe and convenient access to a stream of the material being loaded for the sampler.

(2) Use a "Missouri D" probe according to the following system:

(i) At least 12 cores must be drawn in different locations.

(ii) When a single lot of fertilizing material is in two separate compartments, take a minimum of six cores from each compartment.

(iii) When a single lot of fertilizing material is in three or more compartments, take a minimum of four cores from each compartment.

(c) When sampling gypsum, the following procedure is acceptable:

(1) Scrape outer surface aside before inserting sampler.

(2) Take approximately 20 approximately equal cores from fairly evenly distributed parts of the quantity.

(3) Portions may be taken with a trowel when the material contains large lumps or when for other reasons it is not possible to use a sampler.

(4) Place all portions into sample container and send to the laboratory for mixing and quartering.

(d) Liquid fertilizing materials must be sampled by one of the following systems:

(1) Full horizontal cylindrical or spherical tanks are sampled with a restricted fill liquid sampling device. Lower the liquid sampler just below the surface and allow to fill, the liquid sampler is then recovered and emptied into a suitable container. This process is repeated twice at the center level of the tank and once at the bottom. All four aliquots are thoroughly mixed and tested; or a sample of the four aliquots consisting of not less than one pint shall be sent to the laboratory for testing.

(2) Sample vertical cylindrical, cubic or rectangular shaped tanks by proceeding as in "(1)" except one aliquot is taken from the center level rather than taking two aliquots from the center level.

(3) Nonpressurized nitrogen solutions, nitrogen phosphate mixtures and other clear solutions may be sampled at the sight gauge or outlet after these openings have been drained and flushed with the solution. Fertilizer suspensions or slurries must be completely agitated before sampling; when a homogenous mixture is achieved, sample as above.

(4) Streamcutting a homogenous mixture from a valve while loading is an acceptable sampling procedure.

(5) Small packages of liquid fertilizing materials, when not practical to sample according to subsection (d)(1)(2)(3), shall be represented by one unbroken package which will constitute the official sample.

Note: Authority cited: Sections 407, 14502 and 14646 of the Food and Agricultural Code.

Reference: Section 14646 of the Food and Agricultural Code.

#### **§ 2316. Identification of Official Sample.**

A sample of a fertilizing material shall be identified before removal from premises where it was drawn. The identification shall consist of the date; name of product as given on the label, if any; inspector's initials and sample number.

Note: Authority cited: Sections 407, 14502 and 14645 of the Food and Agricultural Code.

Reference: Sections 14645 and 14646 of the Food and Agricultural Code.

#### **§ 2317. Description of Sample.**

An inspector's Product Sample Data official form showing pertinent information concerning the sample shall be prepared at the time each official sample is drawn. Where reasonably possible, a label shall be taken from the lot represented by the sample and accompany the inspector's Product Sample Data.

Note: Authority cited: Sections 407, 14502 and 14645 of the Food and Agricultural Code.

Reference: Sections 14645 and 14646 of the Food and Agricultural Code.

### **ARTICLE 3. LICENSING**

#### **§ 2318. Licensing.**

In addition to requirements found in Section 14591 of the Food and Agricultural Code, the following information is required.

(a) A place of business.

Note: Authority cited: Sections 407, 14502 and 14591 of the Food and Agricultural Code.

Reference: Section 14591 of the Food and Agricultural Code.

#### **§ 2319. Experimental Use of a Fertilizing Material.**

Experimental use of a fertilizing material for noncommercial value is exempt from licensing.

Note: Authority cited: Sections 407, 14502 and 14591 of the Food and Agricultural Code.  
Reference: Sections 14531 and 14591 of the Food and Agricultural Code.

#### **ARTICLE 4. REGISTRATION**

##### **§ 2320. Registration.**

In addition to requirements found in Section 14601 of the Food and Agricultural Code, the following information is required. Each auxiliary soil and plant substance, packaged agricultural mineral, packaged soil amendment, specialty fertilizer, and organic input material shall be registered in the name of the legal entity or person whose name appears on the label before being distributed in this state. These materials shall not be distributed or sold unless the product is registered.

Note: Authority cited: Sections 407, 14502 and 14601, Food and Agricultural Code.  
Reference: Section 14601, Food and Agricultural Code.

##### **§ 2320.1. Fee for Each Organic Input Material Product Label Submitted for Registration.**

- (a) The fee for each organic input material product label submitted for registration is five hundred dollars (\$500).
- (b) Each product label registration shall be renewed in January of an even-numbered year, and shall be valid until December 31 of the following odd-numbered year. The registration renewal fee for organic input material is five hundred dollars (\$500) per product label.
- (c) If the Secretary returns an incomplete application for product registration to the applicant, the applicant has 180 days from the date the Secretary initially returned the application to resubmit a complete application without payment of a new registration fee. A new registration fee must accompany applications resubmitted after 180 days from the date the Secretary returned the application.

Note: Authority cited: Sections 407, 14502, and 14601, Food and Agricultural Code.  
Reference: Section 14601, Food and Agricultural Code.

##### **§ 2320.2. Registration Application for Organic Input Material Product Label.**

- (a) Organic input materials submitted for registration shall comply with the requirements of the National Organic Program (NOP) standards, as specified in Part 205 (commencing with Section 205.1) of Subchapter M of Chapter I of Subtitle B of Title 7 of the Code of Federal Regulations.
- (b) Product label registration for Organic input material shall be made on an application designated by the department, Organic Input Material, Fertilizing Materials Registration Application, 513-026 (Rev. 12/10), which is hereby incorporated by reference. Applications must be accompanied by the appropriate fee and shall include:
  - (1) A copy of the label accompanying the material and a statement of all claims to be made for it, including the directions and precautions for use.

(2) The complete formula of the material including the active, inert ingredients, the name, source, and function of every substance that is added in creation of the final product. This includes primary ingredients and feedstocks, growth media, substrates, extractants, solvents, emulsifiers, precursors, reactants and stabilizers, as well as any chelating, complexing, crystallizing, granulating, hydrolyzing, flowing, or floating agents, or any other additives.

(3) A complete description of the manufacturing process for the Organic Input Materials (OIM), including ingredient amounts, sequence and duration of events, temperature changes, reactions, and all steps taken to assure that OIM are not contaminated with USDA-NOP prohibited substances as well as a description of any composting, digestion, fermentation, extraction, or other processes and any methods used for removing extractants or growth media from the final product.

(4) The intended uses of the product.

(5) The source or supplier of all ingredients.

(6) Alternate formulation.

(7) Third party formulated ingredients.

(8) Any additional information deemed necessary by the Secretary.

Note: Authority cited: Sections 407, 14502 and 14601, Food and Agricultural Code.

Reference: Section 14601, 14550.5, and 14631 Food and Agricultural Code.

### **§ 2320.3. Scope of Organic Input Material.**

(a) A fertilizing material shall be considered to be an organic input material requiring label registration under the following circumstances:

(1) The fertilizing material making claims of compliance to the United States Department of Agriculture, National Organic Program (NOP) standards, or claims for use in organic crop and food production, including but not limited to, submission by the supplier, distributor, or manufacturer for listing by a third-party organic input material review organizations recognized by the NOP.

(2) The fertilizing material includes claims on labels, labeling, literature or extensions of labels, such as websites or social media outlets, or other electronic or verbal communications that the products are suitable for use in the organic crop and food production system.

(b) “Natural Organic Fertilizer” as defined in section 14548 of the Food and Agricultural Code, shall not require registration, under the following circumstances:

(1) The product does not have a label as a fertilizing material, does not make claims of compliance with United States Department of Agriculture, NOP standards, regulations, or statutes, or does not claim that it is acceptable or approved for use in organic crop and food production.

(2) The product does not make nutrient claims on literature, bills of lading, laboratory analysis or extensions of labels, such as websites, social media outlets, or verbal communication.

Note: Authority cited: Sections 407, 14502, 14548, 14550.5 and 14601, Food and Agricultural Code. Reference: Section 14601, 14550.5, 14548, and 14631, Food and Agricultural Code.

**§ 2320.4 Use of the Term “Organic” on Labels and/or Labeling.**

(a) Fertilizing material labels and/or labeling displaying the term “organic” in the licensee’s name on the label, logos, slogans, or brand names, shall be registered as an organic input material or shall comply with subsection (c) by December 31, 2015.

(b) Label and labeling claims implying that a product is suitable for organic crop and food production shall be registered as an organic input material or shall comply with subsection (c). Organic claims include, but are not limited to, the following: Organic gardening, certified organic, and compliance with National Organic Program (NOP) standards.

(c) The use of the term “organic” on fertilizing materials labels and/or labeling, as described in (a) and (b) of this section, not meeting the NOP standards shall include one of the following declarations: “Not for use in organic crop and organic food production in the State of California.” or “Not for use in organic crop and organic food production.”

(1) The declaration shall appear in the display panel of the label.

(2) The declaration shall be in such a style of type of lettering as to be clearly and conspicuously presented with respect to other type, lettering, or graphic material on the label.

Note: Authority cited: Sections 407, 14502, 14550.5 and 14601, Food and Agricultural Code. Reference: Section 14601, 14550.5, and 14631, Food and Agricultural Code.

## **ARTICLE 5. TONNAGE REPORTING**

### **§ 2321. Tonnage Reporting**

In addition to the requirements found in Sections 14621, 14622 and 14623 of the Food and Agricultural Code, the following is required.

(a) The tonnage report shall be made semi-annually no later than July 31, and no later than January 31 of each year. Zero reports are required.

Note: Authority cited: Sections 407, 14502, 14621, 14622 and 14623 Food and Agricultural Code. Reference: Sections 14621 and 14622, Food and Agricultural Code.

### **§ 2322. Civil Penalty Guidelines.**

In applying Section 14651.5 of the California Food and Agricultural Code, the Secretary shall use the provisions of this section to determine the violation class and amount of the penalty.

(a) For the purposes of this section, violation classes are designated as "Serious," "Moderate," and "Minor" to establish maximum penalty amounts. Repeat violations may result in an escalation of violation class. Serious and moderate violations may be downgraded based upon the evidence, the factual circumstances, mitigating factors and the cooperation of the violator.

(1) "Serious." Violations that cause significant false, misleading or deceptive business practices that involve the misbranding, adulteration of fertilizing material products, movement of quarantined products without prior approval of the Secretary, refusal to submit records upon request; or repeated violations of sub-paragraph (2). Serious violations are punishable by a civil penalty of up to five thousand dollars (\$5,000).

(2) "Moderate." Violations in which there is a potential for intermediate level of consumer or competitive harm or repeated violations of sub-paragraph (3). Moderate violations are punishable by a civil penalty of up to one thousand dollars (\$1,000).

(3) "Minor." Violations that are unintentional and have minimal adverse effects on consumers or equitable competition in the market place. In lieu of civil penalty, the Secretary may issue a notice of warning for minor violations.

(b) Table "A" is to be used to establish the level of severity of a particular violation and the corresponding penalty range for "Serious," "Moderate," and "Minor" violation classes. Except where specific violation parameters are provided, the violation column in Table "A" is an abbreviated description of the corresponding section in the California Food and Agricultural Code, Division 4. Plant Industry, and Title 3, Article 10. Violations.

Table “A”: Violations Matrix

Section Code	Description of Violation	Min.	Mod.	Ser.	Penalty	Compliance Timeframe
1. FAC § 14591 – Unlicensed Manufacturer	Manufacturer is not licensed to sell fertilizing materials in California from this business location.	X			Notice of warning for first violation, \$250 for second violation, \$500 for third violation per license cycle. Further violations may be assessed up to \$1000.	30 days to comply.
2. FAC § 14601 - Unregistered Product	Product is not registered for sale in California.	X			Notice of warning for first violation per product, \$250 for second violation per product, \$500 for third violation per license cycle. Further violations may be assessed up to \$1000.	30 days to comply.
3. FAC § 14611 - Mill Assessments	Any licensee whose name appears on the label who sells or distributes fertilizing materials to unlicensed purchasers shall pay to the Secretary an assessment not to exceed two mills (\$0.002) per dollar of sales for all fertilizing materials.	X			Notice of warning. Pending non-compliance, \$200 for non-submittal of each quarterly report.	30 days to comply.
4. FAC § 14623 - Tonnage	The tonnage report shall be submitted to the Secretary semiannually not later than January 31 and July 31 of each year. The Secretary shall impose a penalty in the amount of two hundred dollars (\$200) on any person who does not submit the report on or before those dates. Any tonnage report that is more than 90 days past due is a cause for revocation of the license.			X	\$200 for non-submittal for each semi-annual report.	30 days to comply.
Section Code	Description of Violation	Min.	Mod.	Ser.	Penalty	Compliance Timeframe
5. FAC § 14631 Unlabeled Product (Label shall accompany each shipment)	Every lot, parcel or package of fertilizing material distributed into or within California shall be accompanied by a label.	X			Notice of warning for first violation per product, \$250 for second violation per product, \$500 for third violation per license cycle. Further violations may be assessed up to \$1000.	30 days to comply.

6. FAC § 14641 - Access to records and premises	The Secretary shall have free access at reasonable times to all records, premises, production processes, or conveyances that are used in the manufacture, transportation, importation, distribution, storage, or application of any fertilizing material.			X	Violations may be assessed up to \$5000.	30 days to comply.
7. FAC § 14642 - Sampling and access to facility	The Secretary shall, at the times and to the extent necessary for the enforcement of this chapter, do all of the following: (a) Take samples of any substance. (b) Make analyses or examinations of any substance. (c) Conduct investigations concerning the use, sale, adulteration, or misbranding of any substance. (d) Inspect the fertilizing material manufacturing facilities and take samples at various stages of production to verify label and labeling claims and production processes.			X	Violations may be assessed up to \$5000.	30 days to comply.
8. FAC § 14655 – Movement of Quarantine	(a) Any lot of fertilizing material for which a hold order or notice is issued shall be held by the person having control of the material and shall not be distributed or moved except under the specific directions of the Secretary, pending final disposition pursuant to this chapter. This does not prevent the person who has control of the material from inspecting any seized material or from taking a reasonable sample for evidence while in the presence of a person designated by the Secretary.			X	\$1000 for first instance. 14655(b) applies after that (misdemeanors).	30 days to comply.
Section Code	Description of Violation	Min.	Mod.	Ser.	Penalty	Compliance Timeframe
9. FAC § 14681(a) - Misbranded Product (Misleading Label)	A fertilizing material shall be deemed misbranded if its label is misleading in any particular manner.			X	Violations may be assessed up to \$5000.	30 days to comply.



10. FAC § 14681 (b) -Misbranded Product (False Distribution)	A fertilizing material shall be deemed misbranded if it is distributed under the name of another fertilizing material.			X	Violations may be assessed up to \$5000.	30 days to comply.
11. FAC § 14681(c) - Misbranded Product (Not Labeled as Required)	No person shall distribute misbranded fertilizing materials. A fertilizing material shall be deemed to be misbranded if it is not labeled as required by regulations.			X	Violations may be assessed up to \$5000.	30 days to comply.
12. FAC § 14682 (a) - Adulterated Product (Harmful to Plants)	No person shall knowingly distribute an adulterated fertilizing material. A fertilizing material shall be deemed adulterated if it contains any deleterious or harmful ingredient in sufficient amounts to render it injurious to beneficial plant life when applied in accordance with direction for use.			X	Violations may be assessed up to \$5000.	30 days to comply.
13. FAC § 14682 (b) - Adulterated Product (Composition)	No person shall distribute an adulterated fertilizing material. A fertilizing material shall be deemed adulterated if its composition falls below or differs from that which it is purported to possess by its labeling (Composition variability associated with inherent properties of physical blending, feedstock, and sampling of fertilizing materials will be considered as minor violations).			X	Violations may be assessed up to \$5000.	30 days to comply.
14. FAC § 14682 (d) - Adulterated Product (Threat to Public Health)	No person shall distribute an adulterated fertilizing material. A fertilizing material shall be deemed to be adulterated if it is a threat to public safety.			X	Violations may be assessed up to \$5000.	30 days to comply.

Section Code	Description of Violation	Min.	Mod.	Ser.	Penalty	Compliance Timeframe
15. FAC § 14682 (e) – Adulterated Product (Organic Input Material)	If organic input materials contains ingredients that do not comply with the requirements of the NOP standards (The term “ingredients” in the FAC Section 14682 (e) means any substance which is deliberately included in a fertilizing material).			X	Violations may be assessed up to \$5000 and may result in misdemeanor.	30 days to comply.
16. CCR § 2300 (e) - Zero Guarantees	"Zero" guarantees shall not appear in the guaranteed analysis statement.	X			Notice of warning. Pending non-compliance, FAC 14681 (a) applies.	30 days to comply.
17. CCR § 2300 (f) - Brand Names	Brand names, trade names, and trademarks are prohibited in the derivation statement.	X			Notice of warning. Pending non-compliance, FAC § 14681 (a) applies.	30 days to comply.
18. CCR § 2300 (g) - No State of California Endorsement	The statement "State of California approved" or other indication of official approval is prohibited in labeling and advertising.	X			Notice of warning for non-organic labels only.	"However, labeling for products to be used in the production of organic food and crops is allowed to display CDFA's registered organic input material logo.
19. CCR § 2300 (h) - B Warning Statement	A warning statement shall appear on the label of any commercial fertilizer that contains 0.1 percent or more of Boron. This statement shall include the word "WARNING" or "CAUTION" conspicuously displayed and shall state the crop(s) for which the fertilizing materials is to be used and state the use on crops other than those recommended.	X			Notice of warning. Pending non-compliance, FAC 14681 (a) applies.	30 days to comply.

Section Code	Description of Violation	Min.	Mod.	Ser.	Penalty	Compliance Timeframe
20. CCR § 2300 (i) - Mo Warning Statement	A warning or caution statement shall appear on the label of any commercial fertilizer that contains 0.001 percent or more of molybdenum (Mo) may result in forage crops containing levels of molybdenum (Mo) which are toxic to ruminant animals.	X			Notice of warning. Pending non-compliance, FAC 14681 (a) applies.	30 days to comply.
21. CCR § 2302 (a) - Heavy Metal (As, Cd, Pb) Violation	Inorganic commercial fertilizer and agricultural minerals percent iron, manganese, phosphates, or zinc shall not exceed the concentrations of non-nutrient metals according to the California Code of Regulations.		X		Violations may be assessed up to \$1000 per product.	30 days to comply.
22. CCR § 2302(a)(4)(5) - Heavy Metals Violation (Specialty Fertilizer)	Specialty fertilizers percent iron, manganese, phosphates, or zinc shall not exceed the concentrations of non-nutrient metals.		X		Violations may be assessed up to \$1000 per product.	30 days to comply.
23. CCR § 2303 (b) (1) - Net Weight (Dry)	Net weight of dry materials shall appear on the label.	X			Notice of warning. Pending non-compliance, FAC 14681 (a) applies.	30 days to comply.
24. CCR § 2303 (b) (2) - Volume (For PSAs & Specialty Fert) (Liquid)	The label information shall include the volume for packaged soil amendments and liquid specialty fertilizer.	X			Notice of warning. Pending non-compliance, FAC 14681 (a) applies.	30 days to comply.
25. CCR § 2303 (b) (3) - Density and Temperature (Liquid Bulk)	The label shall include the density (pounds per gallon at 68 degrees Fahrenheit) for bulk liquid fertilizer.	X			Notice of warning. Pending non-compliance, FAC 14681 (a) applies.	30 days to comply.
26. CCR § 2303 (c) - Grade (Commercial Fert)	The label shall include the grade.	X			Notice of warning. Pending non-compliance, FAC 14681 (a) applies.	30 days to comply.
27. CCR § 2303 (d) - Licensees Name and Address on Label	The label shall include the licensee's name and address.	X			Notice of warning. Pending non-compliance, FAC 14681 (a) applies.	30 days to comply.
28. CCR § 2303 (e) - Purpose Statement (For PSAs & Specialty Fert)	Purpose of the product must be stated on the label.	X			Notice of warning. Pending non-compliance, FAC 14681 (a) applies.	30 days to comply.

Section Code	Description of Violation	Min.	Mod.	Ser.	Penalty	Compliance Timeframe
29. CCR § 2303 (f) - Directions for Use (For ASPs, PSAs & Specialty Fert)	Directions for use (for auxiliary soil and plant substances, packaged soil amendments and specialty fertilizers only).	X			Notice of warning. Pending non-compliance, FAC 14681 (a) applies.	30 days to comply.
30. CCR § 2303 (g) - Non Plant Food Ingredient Statement (For ASPs)	The statement "NONPLANT FOOD INGREDIENT" printed in capital letters (for auxiliary soil and plant substance products) must be included.	X			Notice of warning. Pending non-compliance, FAC 14681 (a) applies.	30 days to comply.
31. CCR § 2303 (h) - Statement of Composition (For ASPs)	A statement of composition showing the percent of each active ingredient, which is the agent in the product primarily responsible for the intended effects (for auxiliary soil and plant substances).	X			Notice of warning. Pending non-compliance, FAC 14681 (a) applies.	30 days to comply.
32. CCR § 2303 (i) - Guaranteed Analysis on Label	A guaranteed analysis was not stated on the label or was in an incorrect format.	X			Notice of warning. Pending non-compliance, FAC 14681 (a) applies.	30 days to comply.
33. CCR § 2303 (i) (1) - Forms of Nitrogen	The forms of nitrogen are not stated on the label.	X			Notice of warning. Pending non-compliance, FAC 14681 (a) applies.	30 days to comply.
34. CCR § 2303 (i) (2) - Secondary and Micronutrients	Secondary or micronutrients, if claimed, must be guaranteed at or above the established minimum values.	X			Notice of warning. Pending non-compliance, FAC 14681 (a) applies.	30 days to comply.
35. CCR § 2303 (j) - Derivation Statement (For Commercial Fert & Ag Min)	The label shall include a derivation statement.	X			Notice of warning. Pending non-compliance, FAC 14681 (a) applies.	30 days to comply.
36. CCR § 2303 (k) - List of Ingredients (For PSAs)	Labels for packaged soil amendments shall include a list of ingredients in decreasing amounts present.	X			Notice of warning. Pending non-compliance, FAC 14681 (a) applies.	30 days to comply.
37. CCR § 2303 (l) - Non Plant Food Ingredient Statement (For Commercial Fert & Ag Min)	The following format and guarantees, as applicable for the following products or ingredients, shall appear following the derivation statement of agricultural mineral and commercial fertilizer labels: "ALSO CONTAINS NONPLANT FOOD INGREDIENT(S):"	X			Notice of warning. Pending non-compliance, FAC 14681 (a) applies.	30 days to comply.
38. CCR § 2303 (n) - Forms of N adding to Total N	The guarantees for the forms of nitrogen must add up to the total nitrogen guarantee claimed.	X			Notice of warning. Pending non-compliance, FAC 14681 (a) applies.	30 days to comply.

Section Code	Description of Violation	Min.	Mod.	Ser.	Penalty	Compliance Timeframe
39. CCR § 2303 (r) - Heavy Metal Statement (Base Ingredients)	The manufacturer of any base fertilizing material ingredient that claims iron, manganese, zinc or phosphates shall provide a guarantee statement that the product does not exceed standards established for arsenic, cadmium and lead.		X		Violations may be assessed up to \$1000 per product.	30 days to comply.
40. CCR § 2303 (s) - Heavy Metal Statement on the Label or provide a Website or Phone Number	In lieu of stating the metals on the label, provide either a licensee maintained website that contains no advertising or company specific information, direct link to a government website or provide a toll free number.	X			Notice of warning. Pending non-compliance, FAC 14681 (a) applies.	30 days to comply.
41. CCR § 2304 (a) - Microbial Species	Name of each species and strains as part of the statement of composition and name of each by-product, if claimed.	X			Notice of warning. Pending non-compliance, FAC 14681 (a) applies.	30 days to comply.
42. CCR § 2304 (b) - Units for Microbial Guarantees	(1) The percentage or number of viable units of microorganisms per cubic centimeters. (2) The concentration in percentage of enzymes or other organism by-products claimed.	X			Notice of warning. Pending non-compliance, FAC 14681 (a) applies.	30 days to comply.
43. CCR § 2304 [c] - Date of Expiration	The expiration date for use.	X			Notice of warning. Pending non-compliance, FAC 14681 (a) applies.	30 days to comply.
44. CCR § 2304 (d) - Storage Conditions	Storage conditions.	X			Notice of warning. Pending non-compliance, FAC 14681 (a) applies.	30 days to comply.
45. CCR § 2305 (a) - Chelating Agents (Name)	Label chelation claims must include the name of the chelating agent.	X			Notice of warning. Pending non-compliance, FAC 14681 (a) applies.	30 days to comply.

Section Code	Description of Violation	Min.	Mod.	Ser.	Penalty	Compliance Timeframe
46. CCR § 2305 (b) - Chelating Agents (Analysis)	The percent of guaranteed chelated micronutrient content must be stated accurately within the guaranteed analysis.	X			Notice of warning. Pending non-compliance, FAC 14681 (a) applies.	30 days to comply.
47. CCR § 2306- Fish Emulsion	When a product is labeled as fish emulsion, it shall contain a minimum of 40 percent total solids.	X			Notice of warning. Pending non-compliance, FAC 14681 (a) applies.	30 days to comply.
48. CCR § 2308 (a) - Packaged Soil Amendments (Volume)	Packaged soil amendments shall be measured by volume (quarts/cubic feet). If other measurement information is shown, it shall be in parentheses following the volume statement.	X			Notice of warning. Pending non-compliance, FAC 14681 (a) applies.	30 days to comply.
49. CCR § 2308 (c) - Packaged Soil Amendments (Composition)	When a packaged soil amendment is labeled as a specific material, such as peat moss or leaf mold, the product shall consist of not less than 95 percent of that material.	X			Notice of warning. Pending non-compliance, FAC 14681 (a) applies.	30 days to comply.
50. CCR § 2309 (b) - Available Phosphoric Acid	Product containing phosphoric acid shall state on the label the percentage of "Available Phosphoric Acid." If, in addition, a percentage of "Total Phosphoric Acid" is stated, the percentage of "Insoluble Phosphoric Acid" must be stated immediately below.	X			Notice of warning. Pending non-compliance, FAC 14681 (a) applies.	30 days to comply.
51. CCR § 2309 (a) - Phosphorous materials	Products that contain phosphorous acid shall state on the label the percentage of "Total Phosphoric Acid", upon conversion of phosphorous acid.	X			Notice of warning. Pending non-compliance, FAC 14681 (a) applies.	30 days to comply.
52. CCR § 2311 (a) - Slow Release	The label shall not state or imply that a plant nutrient or micronutrient contained in a fertilizer is released slowly over a period of time, unless such nutrients or micronutrients are identified and guaranteed.	X			Notice of warning. Pending non-compliance, FAC 14681 (a) applies.	30 days to comply.

Section Code	Description of Violation	Min.	Mod.	Ser.	Penalty	Compliance Timeframe
53. CCR § 2312 - Gypsum equivalent	Any of the following four compounds, Hydrated Calcium Sulfate, Anhydride Calcium Sulfate, Hydrated Calcium Sulfite, and Anhydride Calcium Sulfite singly or in combination, shall be expressed as a percent gypsum equivalent on the label.	X			Notice of warning. Pending non-compliance, FAC 14681 (a) applies.	30 days to comply.

Note: Authority cited: Sections 407, 14502, 14651.5 and 14655, Food and Agricultural Code  
Reference: Section 14651.5, 14653, 14655, 14681 and 14682, Food and Agricultural Code.

### **§ 2322.1. Filing Deadlines and Procedures.**

(a) The respondent may contest a notice of adverse determination for any violation specified in Section 2322 and may request an informal hearing by written correspondence to the Secretary of the Department of Food and Agriculture, 1220 "N" Street, Room A-107, Sacramento, California 95814.

(b) The respondent must submit a request for an informal hearing to the Secretary in writing within 30 days from the date of the notice of adverse determination.

(c) The respondent may request a formal hearing in lieu of an informal one. The respondent must do so within the filing deadlines for requesting an informal hearing set forth in subsection (b). Any request must be accompanied by a written statement in support of it. The hearing officer shall determine whether to proceed with an informal hearing or whether a formal hearing or other appropriate administrative proceeding may be required by statute pursuant to Chapter 5 (commencing with section 11500), Part 1, Division 3, Title 2 of the Government Code.

(d) Failure to present a timely request for a hearing constitutes a waiver of the respondent's right to contest the notice of an adverse determination.

(e) If the notice of adverse determination places a hold on a fertilizing material product, or requires a person to cease operations, the notice of adverse determination shall remain in effect pending the outcome of the informal hearing.

Note: Authority cited: Section 407, Food and Agricultural Code; and Section 11400.20, Government Code. Reference: Sections 11501, 11502 and 11503, Government Code.

### **§ 2322.2. Hearing Schedule and Notification.**

(a) Supplemental to any procedures set forth in Chapter 4.5 (commencing with Section 11400), Part 1, Division 3, Title 2, of the Government Code, the Department shall schedule an informal hearing within 30 days from the receipt of a written request from the respondent.

(b) Formal hearings shall be scheduled by the Department consistent with the provisions of Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2 of the Government Code, and any applicable regulations enacted pursuant to these provisions.

(c) The Department shall provide a notice of the informal hearing to the respondent containing the following information:

- (1) Date, location, and time of the informal hearing;
- (2) Departmental contact information including applicable telephone and facsimile numbers;
- (3) Subject matter of the adverse determination; and,
- (4) Any other information or documentation relative to the adverse determination.

Note: Authority cited: Section 407, Food and Agricultural Code; and Section 11400.20, Government Code. Reference: Sections 11501, 11502 and 11503, Government Code.

### **§ 2322.3. Hearing Procedures.**

- (a) Hearings shall be presided over and conducted by a Hearing Officer designated by the Secretary.
- (b) The standard of proof to be applied by the Hearing Officer shall be the preponderance of the evidence.
- (c) The burden of proof shall be on the respondent.
- (d) Hearings may be conducted by telephone, at the discretion of the Hearing Officer.
- (e) The decision of the Hearing Officer shall be in writing. The decision shall be in minute order form, containing only a brief statement of the conclusion and findings to support the conclusion. It may be handwritten.
- (f) The decision shall be issued within 15 days after the conclusion of the hearing and may be issued orally at the conclusion of the hearing subject to written confirmation.
- (g) The written decision shall be served on the respondent either by personal service or, if available, by facsimile transmission.
- (h) The Hearing Officer's decision shall be effective immediately upon first articulation under subsection (f) and shall be final and not appealable to the Secretary or any other officer of the Department.
- (i) The owner may challenge the Hearing Officer's decision by filing a writ of administrative mandamus in the appropriate court pursuant to Code of Civil Procedure Section 1094.5.
- (j) Hearings shall be recorded by audio tape.

Note: Authority cited: Sections 407, 14502, 14651, 14651.5, Food and Agricultural Code. Reference: Sections 14653, 14655, 14681, and 14682, Food and Agricultural Code; and Sections 11425.50 and 11445.10, Government Code.

### **§ 2323. On Site Inspection of Organic Input Material Manufacturers.**

- (a) The Secretary shall have free access at reasonable times to all records, premises, production processes, storage facilities, inventories or conveyances that are used in the manufacture, transportation, importation, distribution, storage, or application of any organic input material.
- (b) The Secretary shall perform site inspections of organic input material manufacturers and manufacturing processes used to validate label nutrient guarantees, claims, and compliance with National Organic Program standards at least once per year.



(c) The Secretary may accept inspections performed by a third-party organization recognized by the National Organic Program for out-of-state organic input material manufacturers. All inspection records obtained by the third-party organization shall be made available to the Secretary upon request. When a third-party organization is conducting a site inspection, the organization's inspection shall be consistent with the Secretary's inspection protocol and shall notify the department of when the inspection is going to take place no less than 72 hours in advance of the inspection. Department representatives may be present at the inspection.

(d) Organic input materials manufacturers shall maintain all the records demonstrating compliance with the NOP standards and submit complete documentation describing all ingredients, manufacturing processes, process control information, laboratory analysis of incoming ingredients and finished products, and other information as required by the Secretary.

(e) For the purpose of determining compliance, the Secretary may do all of the following:

- (1) Take samples of any raw ingredients, finished products, and substances.
- (2) Take samples at various stages of the manufacturing process.
- (3) Make analysis or examinations of any raw ingredients, substances, and organic input material.

Note: Authority cited: Sections 407, 14502, 14601, 14641, and 14642 Food and Agricultural Code. Reference: Section 14601, Food and Agricultural Code.

#### **§ 2324. Access for Sampling.**

Authorized staff may take a sample for analysis from any lot of fertilizing material which is in the possession of any producer, manufacturer, importer, agent, dealer, or user.

Note: Authority cited: Sections 407, 14502, 14601, 14641, 14642 and 14645, Food and Agricultural Code. Reference: Section 14645, Food and Agricultural Code.

#### **§ 2325. Records Maintenance and Audit.**

Each licensee shall maintain in this state, or with the secretary's permission at another location, an accurate record of all transactions subject to assessment. These records shall be maintained for a period of not less than three years following the transaction and are subject to audit by the secretary. Records of all transactions subject to assessment shall be made available to the Department upon request.

Note: Authority cited: Sections 407, 14502 and 14612, Food and Agricultural Code. Reference: Section 14612, Food and Agricultural Code.

### **ARTICLE 6. MILL ASSESSMENTS**

#### **2326.1. Mill Assessment Rates.**

(a) A licensee whose name appears on the label who sells or distributes bulk fertilizing materials, as defined in Food and Agricultural Code Sections 14517 and 14533, to unlicensed purchasers, shall pay to the secretary an assessment of two mills (\$0.002) per dollar of sales for

all sales of fertilizing materials. A licensee whose name appears on the label of packaged fertilizing materials, as defined in Food and Agricultural Code Sections 14533 and 14551, shall pay to the secretary an assessment of two mills (\$0.002) per dollar of sales of all sales of fertilizing materials.

(b) In addition to the assessment provided in subdivision (a), the secretary establishes the mill assessment on fertilizing materials products at one mill (\$0.001) per dollar of sales for all sales of fertilizing materials, to provide funding for research and education regarding the use and handling of fertilizing materials pursuant to Food and Agricultural Code section 14611(b).

Note: Authority cited: Sections 407, 14501, 14502, and 14611, Food and Agricultural Code.

Reference: Section 14501, 14517, 14533, 14551, and 14611(b), Food and Agricultural Code.

## **2326.2. Penalties**

For any delinquency in making the payment, or any deficiency in payment of the fertilizing materials mill assessment which is received after the date due (one calendar month after March 31, June 30, September 30, and December 31 of each year), a penalty of 15 percent of the amount which is due shall be added.

Note: Authority cited: Sections 407, 14501, 14502, 14611, and 14613, Food and Agricultural Code.

Reference: Section 14501, 14517, 14533, 14551, 14611, and 14613, Food and Agricultural Code.